

G.O.C. STAFF RULE ABSTRACT

<u>AGENCY:</u>	Underground Storage Tanks and Solid Waste Disposal Control Board
<u>SUBJECT:</u>	List of Inactive Hazardous Substance Sites
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Sections 68-212-206(e) and 68-212-215(e)
<u>EFFECTIVE DATES:</u>	May 6, 2015 through June 30, 2016
<u>FISCAL IMPACT:</u>	None
<u>STAFF RULE ABSTRACT:</u>	This rule deletes the Oneida Railway Site located in Oneida, Scott County, Tennessee from the List of Inactive Hazardous Substance Sites.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C A § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no comments received during the comment period.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

This proposed rule deletes the Oneida Railway Site located in Oneida, Scott County, Tennessee from the List of Inactive Hazardous Substance Sites.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

There are no small businesses impacted by this rulemaking.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There are no small businesses impacted by this rulemaking, therefore there are no reporting, recordkeeping, and other administrative costs,

- (3) A statement of the probable effect on impacted small businesses and consumers.

There will be no impact on small businesses.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

No alternatives are available to achieve the purpose of this rulemaking

- (5) A comparison of the proposed rule with any federal or state counterparts.

This rulemaking is site specific so there is no direct comparison with any federal or state counterpart.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

There is no effect since this rulemaking does not impact small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Department does not anticipate an impact on local governments from this rulemaking.

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 02-04-15
Rule ID(s): 5870
File Date: 2/5/2015
Effective Date: 5/6/2015

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Environment and Conservation
Division:	Remediation
Contact Person:	Robert L. Powell
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 14th Floor Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-0916
Email:	Robert.Powell@tn.gov

Revision Type (check all that apply):

- ☒ Amendment
☐ New
☐ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0400-15-01	Hazardous Substance Remedial Action
Rule Number	Rule Title
0400-15-01-.13	List of Inactive Hazardous Substance Sites

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Amendment

0400-15-01

Hazardous Substance Remedial Action

Rule 0400-15-01-.13 List of Inactive Hazardous Substance Sites is amended by deleting the following site from the list, such deletion being made in a manner so that the entire list remains in numerical order.

0400-15-01-.13 List of Inactive Hazardous Substance Sites.

Promulgated List

SITE NUMBER

SITE NAME

ANDERSON (01)

01504

D.O.E Oak Ridge
Oak Ridge, TN

01579

Dupont Smith/Atomic City
Oak Ridge, TN

01580

Anderson County Landfill
Clinton, TN

SITE NUMBER

SITE NAME

BLOUNT (05)

05501

Aluminum Co. of America
Alcoa, TN

05503

Aluminum Co. of America
Alcoa, TN

SITE NUMBER

SITE NAME

BRADLEY (06)

06505

Duracell Inc.
Cleveland, TN

SITE NUMBER

SITE NAME

CARTER (10)

10502

American Bemberg Plant
Elizabethtown, TN

10508

Old Bemberg Bldg.
Elizabethtown, TN

SITE NUMBER

SITE NAME

COCKE (15)

15504

Arapahoe/Rock Hill Labs
Newport, TN

15505

Newport Dump
Newport, TN

15508	Wall Tube and Metal Newport, TN
SITE NUMBER	SITE NAME
	DAVIDSON (19)
19511	Stauffer Chemical Nashville, TN
19524	Municipal Landfill Nashville, TN
SITE NUMBER	SITE NAME
	FAYETTE (24)
24501	Ross Metals Rossville, TN
24503	Gallaway Pits Gallaway, TN
SITE NUMBER	SITE NAME
	FRANKLIN (26)
26501	AEDC Arnold Air Force Station, TN
SITE NUMBER	SITE NAME
	GIBSON (27)
27512	ITT Telecommunications Milan, TN
SITE NUMBER	SITE NAME
	HAMBLEN (32)
32506	BASF/Stauffer Chemical Co. Morristown, TN
32514	Old Morristown-Hamblen Co. Landfill Morristown, TN
32517	Neblett Road Dump Morristown, TN
32518	Pine Brook Road Dumb Morristown, TN
SITE NUMBER	SITE NAME
	HAMILTON (33)
33527	Velsicol/Residue Hill Chattanooga, TN
33540	Montague Park Chattanooga, TN
33543	Hamill Road Dump #3 Chattanooga, TN
33547	Chattanooga Coke Chattanooga, TN

33550	North Hawthorne Dump
	Chattanooga, TN
33557	USVAAP
	Chattanooga, TN
33584	Chattanooga Creek
	Chattanooga, TN
33596	Mor-Flo Industries, Inc.
	Chattanooga, TN
33618	Morningside Chemicals
	Chattanooga, TN
33620	National Microdynamics (Lutex Chemical)
	Chattanooga, TN
33635	Tennessee Transformer
	Chattanooga, TN
33660	Electro-Lite Battery
	Chattanooga, TN

SITE NUMBER

SITE NAME

HARDEMAN (35)

35506

Velsicol Chemical
Toone, TN

SITE NUMBER

SITE NAME

HENRY (40)

40506

Henry County Boneyard
Paris, TN

SITE NUMBER

SITE NAME

HICKMAN (41)

41504

Wrigley Charcoal
Wrigley, TN

SITE NUMBER

SITE NAME

JEFFERSON (45)

45503

Hodgson, Hollis
Jefferson City, TN

SITE NUMBER

SITE NAME

KNOX (47)

47514

Witherspoon Landfill
Knoxville, TN

47518

Badgett Road Landfill
Knoxville, TN

47521

Southern Rail/Coster Shop
Knoxville, TN

47523

Foote Mineral/Cas Walker (Dante)
Knoxville, TN

47530

Screen Art, Inc.
Knoxville, TN

47541

Witherspoon Recycling

47545	Knoxville, TN Sanitary Laundry & Dry Cleaning
47547	Knoxville, TN Roscoe Fields Property
47559	Knoxville, TN Smokey Mountain Smelters
47573	Knoxville, TN Dixie Barrel & Drum Co.

SITE NUMBER

SITE NAME

LAWRENCE (50)

50502	Murray-Ohio Landfill Lawrenceburg, TN
50505	Lawrenceburg Horseshoe Bend Lawrenceburg, TN
50509	Former Murray Ohio Plant Lawrenceburg, TN

SITE NUMBER

SITE NAME

LOUDON (53)

53502	Greenback Industries Greenback, TN
53503	Lenoir City Car Works Lenoir City, TN

SITE NUMBER

SITE NAME

MADISON (57)

57508	American Creosote Works Jackson, TN
57510	Porter Cable Jackson, TN
57517	Boone Dry Cleaners Jackson, TN

SITE NUMBER

SITE NAME

MARION (58)

58502	North American Environmental Whitwell, TN
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SITE NUMBER

SITE NAME

MARSHALL (59)

59502	Heil Quaker Corp. Lewisburg, TN
59503	Lewisburg Dump Lewisburg, TN

SITE NUMBER

SITE NAME

MAURY (60)

60501

Stauffer Chemical Co.
Mt. Pleasant, TN
Monsanto
Columbia, TN

60534

SITE NUMBER

SITE NAME

MONROE (62)

62505

Red Ridge Landfill
Madisonville, TN

SITE NUMBER

SITE NAME

POLK (70)

70502

Apache Blast
Copperhill, TN

SITE NUMBER

SITE NAME

PUTNAM (71)

71502

Putnam County Landfill
Cookeville, TN

SITE NUMBER

SITE NAME

ROANE (73)

73504

Roane Alloys
Rockwood, TN

73506

Rockwood Iron & Metal
Rockwood, TN

73512

Joyner Scrap Yard
Rockwood, TN

SITE NUMBER

SITE NAME

RUTHERFORD (75)

75522

Old Murfreesboro City Dump
Murfreesboro, TN

SITE NUMBER

SITE NAME

SCOTT (76)

76502

Oneida Railway
Oneida, TN

SITE NUMBER

SITE NAME

SHELBY (79)

79503

Arlington Blending

79517	Arlington, TN Bellevue Avenue Landfill
79518	Memphis, TN Cypress Creek
79525	Memphis, TN International Harvester
79536	Memphis, TN W. R. Grace & Co.
79549	Memphis, TN Chickasaw Ordinance Works
79552	Memphis, TN Carrier Corporation
79561	Collierville, TN Nilok Chemical Company
79569	Memphis, TN Chapman Chemical Co.
79582	Memphis, TN Diesel Recon Co.
79598	Memphis, TN North Hollywood Dump
79604	Memphis, TN Memphis Public Works/Jackson Plots
79676	Memphis, TN Smalley-Piper
79742	Collierville, TN Pulvair Corporation
79758	Millington, TN Old Osmose Chemical
79781	Memphis, TN John Little/Drum
79798	Memphis, TN 61 Industrial Park Site
79799	Memphis, TN Tennessee Air National Guard
79800	Memphis, TN Creotox Chemical Company
79805	Memphis, TN Fiberfine of Memphis
79843	Memphis, TN Warfield Place/Pulvair

SITE NUMBER

SITE NAME

SULLIVAN (82)

82514	Sperry/Unisys
	Bristol, TN
82516	Earhart
	Bristol, TN

SITE NUMBER

SITE NAME

UNICOI (86)

86501	Bumpass Cove Landfill
	Embreenville, TN
86502	Bumpass Cove – Fowler
	Erwin, TN
86505	Morrell Electric, Inc.

Erwin, TN

SITE NUMBER

SITE NAME

WARREN (89)

89504

Century Electric Facility
McMinnville, TN

SITE NUMBER

SITE NAME

WASHINGTON (90)

90510

Cash Hollow Dump
Johnson City, TN

SITE NUMBER

SITE NAME

WAYNE (91)

91501

Mallory Capacitor Co.
Waynesboro, TN

91502

Waynesboro City Dump
Waynesboro, TN

SITE NUMBER

SITE NAME

WILSON (95)

95501

TRW/Ross Gear Division
Lebanon, TN

Authority: T.C.A. §§ 68-212-201 et seq. and 4-5-201 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Marty Calloway (Petroleum Business with at least 15 Underground Storage Tanks)	✓				
Stacy Cothran (Solid/Hazardous Waste Management Industry)	✓				
Kenneth L. Donaldson (Municipal Government)	✓				
Dr. George Hyfantis, Jr. (Institution of Higher Learning)	✓				
Bhag Kanwar (Single Facility with less than 5 Underground Storage Tanks)	✓				
Alan M. Leiserson (Environmental Interests)	✓				
Jared L. Lynn (Manufacturing experienced with Solid/Hazardous Waste)	✓				
David Martin (Working in a field related to Agriculture)	✓				
Beverly Philpot (Manufacturing experienced with Underground Storage Tanks/Hazardous Materials)	✓				
DeAnne Redman (Petroleum Management Business)	✓				
Mayor Franklin Smith, III (County Government)				✓	
Mark Williams (Small Generator of Solid/Hazardous Materials representing Automotive Interests)	✓				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Underground Storage Tanks and Solid Waste Disposal Control Board on 12/03/2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/15/14

Rulemaking Hearing(s) Conducted on: (add more dates). 11/06/14

Date: December 3, 2014

Signature: Stacy Cothran

Name of Officer: Stacy Cothran

Title of Officer: Chair

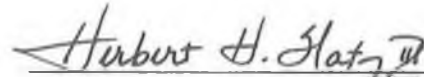


Subscribed and sworn to before me on: Dec. 3, 2014

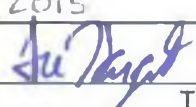
Notary Public Signature: Teresa H. Lewis

My commission expires on: Nov. 8, 2015

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


Herbert H. Slatery III
Attorney General and Reporter
February 3, 2015
Date

Department of State Use Only

Filed with the Department of State on: 2/5/2015
Effective on: 5/16/2015

Tre Hargett
Secretary of State

SECRETARY OF STATE
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G.O.C. STAFF RULE ABSTRACT

<u>AGENCY:</u>	Air Pollution Control Board
<u>SUBJECT:</u>	Visible Emission Regulations
<u>EFFECTIVE DATES:</u>	May 6, 2015 through June 30, 2016
<u>FISCAL IMPACT:</u>	None
<u>STAFF RULE ABSTRACT:</u>	<p>The rules delete rules concerning titanium dioxide manufacturing, kraft mill and soda mill recovery furnaces, and coke battery underfire stacks. According to the board, the rules are being deleted because all existing facilities formerly subject to the rules have been either modified so that the rules no longer apply or the facilities have been shut down.</p>

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment: The only comment was from Region 4 of the United States Environmental Protection Agency. The comment requested that the Division clarify whether the facilities subject to Rules 1200-03- 05-.08, 1200-03-05-.09, and 1200-03-05-.12 have shut down or have been modified and justify accordingly.

Response:

Rule 1200-03-05-.08 only applied to two spray dryers located at a single facility. Both spray dryers have been modified so that they are now subject to federal rules contained in 40 CFR Part 60, Subpart UUU. Rule 1200-03-05-.08 allowed for an 80% opacity limit and the federal rules allow for a 10% opacity limit.

Rule 1200-03-05-.09 only applied to five recovery furnaces located at three facilities. Two of the recovery furnaces have been shut down and demolished; a third recovery furnace has been shut down and converted into a boiler, which is subject to different rules. The remaining two recovery furnaces have been modified so that they are now subject to federal rules contained in 40 CFR Part 60, Subpart BB. Both Rule 1200-03-05-.09 and the federal rules allow for a 35% opacity limit.

Rule 1200-03-05-.12 only applied to a single facility, which has been shut down and demolished.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

None.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

None.

- (3) A statement of the probable effect on impacted small businesses and consumers.

Not applicable.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

Not applicable.

- (5) A comparison of the proposed rule with any federal or state counterparts.

Not applicable.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Not applicable.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Department anticipates that this amended rule will not have a financial impact on local governments.

**Department of State
Division of Publications**

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Sequence Number: 02-05-15
Rule ID(s): 5871
File Date: 2/5/2015
Effective Date: 5/6/2015

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Environment and Conservation
Division:	Air Pollution Control
Contact Person:	Jeryl W. Stewart
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15 th Floor Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-0605
Email:	Jeryl.Stewart@tn.gov

Revision Type (check all that apply):

- ☒ Amendment
☐ New
☐ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-03-05	Visible Emission Regulations
Rule Number	Rule Title
1200-03-05-.07	Repealed
1200-03-05-.08	Titanium Dioxide (TiO ₂) Manufacturing
1200-03-05-.09	Kraft Mill and Soda Mill Recovery Furnaces
1200-03-05-.11	Repealed
1200-03-05-.12	Coke Battery Underfire (Combustion) Stacks

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1200-03-05
Visible Emission Regulations

Amendments

The Table of Contents of Chapter 1200-03-05 Visible Emission Regulations is amended by deleting the titles of Rules 1200-03-05-.07, 1200-03-05-.08, 1200-03-05-.09, 1200-03-05-.11, and 1200-03-05-.12 and substituting the following new titles for those rules:

1200-03-05-.07 Repealed Reserved
1200-03-05-.08 Titanium Dioxide (TiO₂) Manufacturing Reserved
1200-03-05-.09 Kraft Mill and Soda Mill Recovery Furnaces Reserved
1200-03-05-.11 Repealed Reserved
1200-03-05-.12 Coke Battery Underfire (Combustion) Stacks Reserved

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

Rule 1200-03-05-.07 Repealed is amended by deleting the word "Repealed" and replacing it with the word "Reserved" so that, as amended, the rule shall read:

1200-03-05-.07 REPEALED Reserved

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

Rule 1200-03-05-.08 Titanium Dioxide (TiO₂) Manufacturing is amended by deleting the rule in its entirety and replacing it with the word "Reserved" so that, as amended, the rule shall read:

1200-03-05-.08 TITANIUM DIOXIDE (TiO₂) MANUFACTURING Reserved

- (1) ~~Visible emissions from the spray dryers used for pigment drying in the chloride process for the manufacture of (TiO₂) shall meet an emission limit of 80 percent opacity provided that these sources comply with the applicable particulate matter emission limits set forth in Chapter 1200-3-7.~~
- (2) ~~Opacity for the purposes of this rule shall be determined by the reference method specified in the Federal Register, Volume 39, No. 219, November 12, 1974.~~

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

Rule 1200-03-05-.09 Kraft Mill and Soda Mill Recovery Furnaces is amended by deleting the rule in its entirety and replacing it with the word "Reserved" so that, as amended, the rule shall read:

1200-03-05-.09 KRAFT MILL AND SODA MILL RECOVERY FURNACES Reserved

- (1) ~~Visible emissions from kraft mill and soda mill recovery furnaces under construction or in operation prior to September 24, 1976, shall not exhibit 35 percent opacity or greater.~~
- (2) ~~Opacity for the purposes of this rule shall be determined by Reference Method 9 specified in the Federal Register, Vol. 39, No. 219, November 12, 1974, beginning on page 39874.~~
- (3) ~~In order for a source subject to this rule (1200-3-5-.09) to obtain the applicable opacity de minimis level specified in Paragraph 1200-3-20-.06(5), the monitoring of opacity emissions as described in Rule 1200-3-10-.02 shall be conducted.~~

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

Rule 1200-03-05-.11 Repealed is amended by deleting the word "Repealed" and replacing it with the word "Reserved" so that, as amended, the rule shall read:

1200-03-05-.11 REPEALED Reserved

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

Rule 1200-03-05-.12 Coke Battery Underfire (Combustion) Stacks is amended by deleting the rule in its entirety and replacing it with the word "Reserved" so that, as amended, the rule shall read:

1200-03-05-.12 COKE BATTERY UNDERFIRE (COMBUSTION) STACKS Reserved

- (1) ~~In the event emissions from a coke battery underfire stack are determined to be in violation of the opacity limitations contained in other rules of this chapter, the owner or operator may elect within thirty (30) days after notification of violation to conduct particulate emissions testing in accordance with the provisions of this chapter to demonstrate compliance with the applicable particulate mass emission limitation within 45 days after such election. In the event that such testing demonstrates compliance with the mass emission limitation and visible emissions are in excess of the opacity limitation during such testing, the opacity observed during such testing shall become the alternate opacity limitation for that emission point.~~
- (2) ~~The following methods shall be used to determine an alternate opacity limitation:~~
 - (a) ~~Opacity readings shall be recorded at 15-second intervals. Each observation period shall begin with the start of each stack test run meeting the applicable mass emissions limitation and shall end with the completion of the stack test run or sixty minutes later, whichever shall occur first. Opacity observations made during any stack test run which fails to demonstrate compliance with the applicable mass emissions limitation shall not be used in determining the alternate opacity limitation.~~
 - (b) ~~The highest average of sixty minutes or less (the highest average of the first 240 consecutive 15-second opacity observations during each stack test run meeting the applicable mass emissions limitation) shall be determined. If a stack test run is less than one hour, the average of the 15-second opacity observations made during the stack test run shall constitute the average sixty minutes or less for that stack test run.~~
 - (c) ~~The highest rolling six-minute average (the highest average of any 24 consecutive 15-second opacity observations during a stack test run meeting the applicable mass emissions limitation) shall be determined.~~
 - (d) ~~The alternate opacity limitation shall consist of the highest average of sixty minutes or less and the highest rolling six-minute average plus seven percent (opacity).~~
- (3) ~~An alternate opacity limitation determined pursuant to this rule shall be imposed as a condition on any permit issued for the affected source.~~
- (4) ~~In the event there has been a previous violation of an opacity limitation contained in other rules of this chapter and, if the opacity level of the previous violation did not exceed the alternate opacity limitation established pursuant to this rule, the owner or operator shall not be subject to criminal or civil sanctions for the previous violation.~~

Authority: T.C.A. §§ 68-201-101 et seq. and 4-5-201 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
J. Ronald Bailey				✓	
Thomas L. Beehan				✓	
John Benitez	✓				John Benitez
Elaine Boyd	✓				Elaine Boyd
Karen Cisler	✓				Karen Cisler
Wayne T. Davis	✓				Wayne T. Davis
Stephen R. Gossett	✓				Stephen R. Gossett
Shawn A. Hawkins				✓	
Helen Hennon				✓	
Richard Holland	✓				Richard Holland
John Roberts	✓				John Roberts
Larry Waters	✓				Larry Waters
Jimmy West	✓				Jimmy West
Alicia M. Wilson	✓				Alicia M. Wilson

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Air Pollution Control Board on 12/11/2013, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/09/13

Rulemaking Hearing(s) Conducted on: (add more dates). 12/03/13



Date: December 11, 2013

Signature: *Barry R. Stephens*

Name of Officer: Barry R. Stephens

Title of Officer: Technical Secretary

Subscribed and sworn to before me on: December 12, 2013

Notary Public Signature: *Malcolm H. Butler*

My commission expires on: 1-11-2017

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

February 3, 2015
Date

Department of State Use Only

Filed with the Department of State on: 2/5/15

Effective on: 5/6/15

Tre Hargett
Tre Hargett
Secretary of State

2015 FEB -5 AM 11:30
RECEIVED
SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

<u>AGENCY:</u>	Tennessee Fish and Wildlife Commission
<u>SUBJECT:</u>	Special Elk Take Permits
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Section 70-2-219(e)
<u>EFFECTIVE DATES:</u>	May 10, 2015 through June 30, 2016
<u>FISCAL IMPACT:</u>	None
<u>STAFF RULE ABSTRACT:</u>	The rule replaces the request for proposal process for nonprofit wildlife conservation organizations competing for the special elk-take permit with a competitive process that complies with the standards and guidelines for professional service procurements.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

RULE: 1660-01-25-.01

New	_____
Amendment	_____x_____
Repeal	_____

☒ There were no public comments to the above-described rule.

☐ Attached hereto are the responses to public comments.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule;

The Commission does not anticipate significant impact to small businesses in Tennessee. The rule establishes a new competitive process for non-profit wildlife conservation organizations contending for the Special Elk Take Permit.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

The Commission anticipates no record keeping associated with this rule.

(3) A statement of the probable effect on impacted small businesses and consumers;

The Commission anticipates no probable effect to small businesses.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business;

The Commission is unaware of alternatives to the proposed rule and does not believe the rule as proposed would be burdensome to small businesses.

(5) A comparison of the proposed rule with any federal or state counterparts; and

The Commission is unaware of federal or state counterparts to this rule.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

The Commission anticipates no probable effect to small businesses and exemptions to this rule would likely not be beneficial.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

Will passage of this rule have a projected financial impact on local governments?

The Commission is not aware of any projected financial impacts on local governments.

Please describe the increase in expenditures or decrease in revenues:

n/a

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For Department of State Use Only

Sequence Number: 02-06-15
Rule ID(s): 5872
File Date: 2/9/15
Effective Date: 5/10/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Tennessee Wildlife Resources Agency
Division:	Wildlife
Contact Person:	Lisa Crawford
Address:	PO Box 40747, Nashville, TN
Zip:	37204
Phone:	615-781-6606
Email:	Lisa.Crawford@tn.gov

Revision Type (check all that apply):

- ☒ Amendment
☐ New
☐ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1660-01-25	Rules and Regulations of Governing Special Elk Take Permits
Rule Number	Rule Title
1660-01-25-.01	Special Elk Take Permit

Chapter 1660-01-25
Rules and Regulations Governing Special Elk Take Permits

Amendments

1660-01-25-.01, Special Elk Take Permit, is amended by deleting subparagraph (2)(b) in its entirety and inserting a new subparagraph (2)(b) to read as follows:

~~(b) — The agency shall issue a Request for Proposal (RFP), which shall comply with the standards and guidelines established by the State of Tennessee.~~

(b) The agency shall use a competitive process in compliance with the standards and guidelines established by the State of Tennessee for professional service procurements.

1660-01-25-.01, Special Elk Take Permit, is further amended by deleting subparagraph (2)(d) in its entirety and inserting a new subparagraph (2)(d) to read as follows:

~~(d) — The Executive Director of the agency shall appoint a committee of the agency to examine the RFPs and make recommendations to the Executive Director in accordance with state guidelines following the close of the application period. The Executive Director may reject any application that does not conform to the requirements of this section. In selecting an organization, the Executive Director shall consider the qualifications of the organization as a fund raiser; the proposed fund raising plan; the fee charged by the organization for promotional and~~

~~administrative costs relative to the funds obtained from auctioning the permit; and the organizations' previous involvement with elk conservation.~~

- (d) The Executive Director of the agency shall appoint a committee of the agency to examine the proposals or bids and make recommendations to the Executive Director in accordance with state guidelines following the close of the application period. The Executive Director may reject any application that does not conform to the requirements of this section. In selecting an organization, the Executive Director shall consider the qualifications of the organization as a fund raiser; the proposed fund raising plan; the fee charged by the organization for promotional and administrative costs relative to the funds obtained from auctioning the permit; and the organizations' previous involvement with elk conservation.

Statutory Authority: T.C.A. §§70-1-206, 70-2-219

Administrative History: New rule filed May 22, 2008; effective August 5, 2008. Amendment filed July 10, 2009; effective October 8, 2009.

Statutory Authority: T.C.A. §§70-1-206, 70-2-219

Administrative History: New rule filed May 22, 2008; effective August 5, 2008. Amendment filed July 10, 2009; effective October 8, 2009.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent
Jeff McMillin	✓			
Chad Baker				✓
Jim Bledsoe	✓			
Harold Cannon	✓			
Bill Cox	✓			
Jeffrey H. Griggs	✓			
Connie King	✓			
Tom Rice				✓
Jim Ripley	✓			
James Stroud				✓
Trey Teague	✓			
David Watson	✓			
Jamie Woodson				✓

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish & Wildlife Commission on 01/16/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 11/21/2014

Rulemaking Hearing(s) Conducted on: (add more dates). 01/16/2015

Date: 1-23-15

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director

Subscribed and sworn to before me on: 1-23-15

Notary Public Signature: Lisa Crawford

My commission expires on: 5-5-15



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

February 3, 2015
Date

Department of State Use Only

Filed with the Department of State on: 2/9/15

Effective on: 5/10/15

Tre Hargett
Tre Hargett
Secretary of State

2015 FEB -9 AM 11:35

SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

AGENCY: Tennessee Regulatory Authority

SUBJECT: Railroads; Ten Year Master Plan for Technology Deployment by Telephone Companies; Capital Additions Budgets of Utilities; Uniform Financial Report Forms; Uniform System of Accounting

EFFECTIVE DATES: May 12, 2015 through June 30, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: According to the Authority, the rules delete obsolete rules.

The rules delete obsolete rules of the Public Service Commission concerning railroads. The Authority does not regulate railroads.

The rules delete the Ten Year Technology Plan, which took effect over 22 years ago to encourage modernization of the state's telecommunication networks. According to the authority, the Ten Year Technology Plan is not compatible with the deregulated telecommunications market and new technologies.

The rules delete reporting and accounting requirements relative to wireless telecommunications services that the Authority no longer regulates.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

See enclosed memorandum.

TENNESSEE REGULATORY AUTHORITY



502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243

MEMORANDUM

FROM: Jean A. Stone *gjs*
General Counsel

RE: Public Hearing Comments

DATE: June 17, 2014

The Tennessee Regulatory Authority filed its Notice of Rulemaking Hearing with the Secretary of State on March 13, 2014, and held a rulemaking hearing on the proposed rule amendments on June 16, 2014. No person requested to be heard or presented comments during the rulemaking hearing. The official record was held open for an additional two weeks after the hearing for the submission of written comments. No written comments were received.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

The rule amendments impact railroads, wireless telephone companies, and wireline telephone companies. The TRA does not regulate railroads or wireless telephone companies. The TRA estimates 35 wireline telephone companies are small businesses as defined by T.C.A. 4-5-102(13).

Since the proposed rule amendments delete obsolete rules or sections of rules, it is not anticipated that these rule amendments will have any impact on small businesses. The TRA anticipates that, to the extent there is any impact, small businesses will benefit from the proposed amendments through a reduction of regulatory burdens.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

Since the proposed rule amendments delete obsolete rules or provisions, it is not anticipated that these rule amendments will have any impact on small businesses. The TRA anticipates that, to the extent there is any impact, these deletions will reduce regulatory burdens by eliminating certain reporting requirements.

(3) A statement of the probable effect on impacted small businesses and consumers.

Since the proposed rule amendments delete obsolete rules or sections of rules, it is not anticipated that these rule amendments will have any impact on small businesses or consumers. The TRA anticipates that, to the extent there is any impact, these deletions will reduce regulatory burdens on small businesses.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business,

Since the proposed rule amendments delete obsolete rules or sections of rules, it is not anticipated that these rule amendments will have any impact on small businesses. The TRA anticipates that, to the extent there is any impact, these deletions will reduce regulatory burdens on small businesses.

(5) A comparison of the proposed rule with any federal or state counterpart.

Certain sections of the former Public Service Commission rules governing railroads were transferred to the rules and regulations of the Tennessee Department of Transportation in 2002, and are found in Chapter 1680-9-2. The proposed rule amendments delete the remaining sections. The TRA is unaware of any other state or federal counterparts to the rules or provisions being deleted.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

The proposed rule amendments consist solely of deletion of rules or sections of rules. The rule amendments do not impose any requirements.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

The rule amendments will not have an impact on local governments.

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Sequence Number: 02-67-15
Rule ID(s): 5873-5875
File Date: 2/11/15
Effective Date: 5/12/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

List whether rules include fees as specified in §§ 4-5-229. Fees must be submitted as a separate filing. New fees or fee increases promulgated by state agencies shall take effect on July 1, following expiration of the 90 days provided in §§ 4-5-207.

FEES:

 §§ 4-5-229 APPLIES (If applies, see the Fees Filing Form)
 x §§ 4-5-229 DOES NOT APPLY

Agency/Board/Commission: Tennessee Regulatory Authority
Division: Legal Division
Contact Person: Jean Stone
Address: 502 Deaderick Street, 4th Floor, Nashville, Tennessee
Zip: 37243
Phone: (615) 770-6855
Email: Jean.a.stone@tn.gov

Revision Type (check all that apply):

 x Amendment
 New
 x Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1220-03-01	Rules and Regulations Governing Railroads
Rule Number	Rule Title

Chapter Number	Chapter Title
1220-04-01	General Public Utilities Rules
Rule Number	Rule Title
1220-04-01-.01	Capital Additions Budgets of Utilities
1220-04-01-.10	Reports - Uniform Financial Report Forms
1220-04-01-.11	Uniform System of Accounting

Chapter Number	Chapter Title
1220-04-06	Ten Year Master Plan for Technology Deployment by Telephone Companies
Rule Number	Rule Title

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

1220-03-01

Rules and Regulations Governing Railroads

Repeal

Rule 1220-03-01 Rules and Regulations Governing Railroads is repealed in its entirety.

Authority T.C.A § 65-2-102.

1220-04-06

Ten Year Master Plan for Technology Deployment by Telephone Companies

Repeal

Rule 1220-04-06 Ten Year Master Plan for Technology Deployment by Telephone Companies is repealed in its entirety.

Authority T.C.A. §§ 65-2-102 and 65-4-104.

1220-4-1-.01 CAPITAL ADDITIONS BUDGETS OF UTILITIES.

- (1) All public utilities operating in the State of Tennessee shall submit one (1) copy of the following information on an annual basis, to be filed no later than ninety (90) days after the beginning of the current fiscal year with the Chief, Utilities Division or as otherwise agreed upon.
 - (a) Projected expenditures on capital construction projects both routine and specific for the current year.
 - (b) For the current year a brief description of the nature, location and necessity of individual specific projects. Individual specific projects are those projects which for public utilities having more than 300,000 customers in their Tennessee jurisdiction any addition to plant where the cost of the project exceeds \$200,000. For public utilities having between 30,000 and 300,000 customers in their Tennessee jurisdiction, any addition to plant where the cost of the project exceeds \$100,000. For public utilities having less than 30,000 customers in their Tennessee jurisdiction any addition to plant where the cost of the project exceeds \$50,000.00.
 - (c) New projects over the above thresholds that arise during the reporting year as well as reported projects that are later deferred or canceled should be reported at the time of such decisions if they significantly impact customer service. A summary of all changes, together with reasons for change will be included as a supplement to the following year's annual report.
- (2) Those utilities that, pursuant to Rule 1220-4-2-.55, prepare Tennessee specific capital addition budgets for the first and second following years shall also file similar information for these years with the filing in (a) above.
- (3) ~~Projected telephone utility capital expenditures that do not conform to the schedules established in Rule 1220-4-6 (FYI Tennessee Ten-Year Technology Master Plan) shall be accompanied by an explanation for the variance.~~

- (3k) An annual conference, where appropriate, will be scheduled for each utility as required by the Authority's Staff for clarification of the submitted capital additions budgets. The review of such information at an annual conference will not necessarily constitute approval of a utility proposed capital addition.

Authority: T.C.A. §65-2-102.

1220-4-1-.02 TARIFF SPECIFICATIONS.

(1) Form and Style of Tariffs.

- (a) All tariffs must be in book, sheet or pamphlet form with loose leaves so that changes can be made by reprinting and inserting a single leaf.
- (b) The initial tariff filed by each public utility shall be designated as TRA No. 1 and thereafter as other tariffs are filed they shall be designated with the next number in consecutive numerical order. Revisions and additions shall be inserted in the most appropriate location and denoted by the previous sheet numbers plus a letter, i.e., 3A, 3B, etc., or 3.1, 3.2, etc. Revisions to tariff sheets shall be denoted by 1st Revised Sheet No.3, 2nd Revised Sheet, etc.
- (c) The title page should be uniform. Rates, rules and regulations shall be written only on one side of a sheet. If a single sheet is insufficient, two or more pages should be used.
- (d) Separate tariffs shall be filed for electric, telephone, telegraph, gas, water, heat or for any other services rendered.

(2) Size of Tariffs and Copies Required.

- (a) Tariffs and supplements thereto must be typewritten on paper 8½ x 11 inches in size.
- (b) Three copies of each tariff, rate schedule, or revision or supplement shall be filed with the Authority. All three shall bear the name and title of the issuing officer.

Authority: T.C.A. §65-2-102.

1220-4-1-.03 TARIFF CONTENTS.

- (1) Tariffs must explicitly state the rates and charges for each class of service rendered, designating the area or district to which they apply.
- (2) Rules and regulations of the utility that in any manner affects the rates charged or to be charged or that define the extent or character of the service to be given shall be included with each tariff.

Authority: T.C.A. §65-2-102.

1220-4-1-.04 TARIFF CHANGES REQUIRE THIRTY (30) DAYS NOTICE TO THE AUTHORITY.

- (1) Except as hereinafter provided all tariffs, rate schedules or supplements thereto containing any change in rates, tolls, charges or rules and regulations must be filed with the Authority at least thirty (30) days before the effective date of such changes, unless upon application and for good cause shown the Authority may waive the thirty (30) day time limit or any portion thereof.

Authority: T.C.A. §65-2-102.

1220-4-1-.05 PETITION FOR REVISION OF RATES.

- (1) All public utilities applying for revision of rates shall provide the following public notice in regard to proposed rate changes:
 - (a) A utility shall make a summary of the proposed changes and the reasons for them available at each of the utility's business offices.
 - (b) A utility shall cause a summary of the proposed changes and the reasons for them to be published in a newspaper of general circulation located in the utility's service area.
- (2) The summary must include a summarization of every proposed rate change written in clear, simple, and understandable language and the predicted impact of proposed changes on the average residential and business customers served by the utility. The newspaper notice and the notice at the utility's business office shall state that a complete copy of the proposed tariff changes and the reasons for them are on file with the Tennessee Regulatory Authority and are open to public inspection. The public notice should also state the date and place when the application will be heard by the Authority, if known.
- (3) The petitioner, by a duly authorized officer, or by its attorney, shall file a statement in writing on or before the date of hearing that the above notice has been published and posted, together with the date and location of said posting and publication, as required by this rule.

Authority: T.C.A. §§65-2-102 and 65-4-104.

- (1) All public utilities, agents, representatives, or bureaus issuing tariffs or schedules of rates and charges affecting Tennessee intrastate business, shall file with the Tennessee Regulatory Authority of the State of Tennessee written notice, in triplicate, containing a brief explanation of the character of and reason for proposed changes in said tariff schedules.
- (2) Such explanation shall be filed not later than the date said tariff or schedule is filed.
- (3) A receipt copy of said explanation shall be evidence of filing such explanation and related tariffs or schedules.
- (4) All tariffs and supplements affecting Tennessee intrastate business shall be filed with the Tennessee Regulatory Authority at least thirty (30) days before the date upon which they are to become effective, unless upon application and for good cause shown the Authority may waive the thirty (30) days time limit or any portion thereof.
- (5) The Authority may, on its own motion or on the filing of a sufficient protest by any person or persons affected, order such tariff modified or suspended.

Authority: T.C.A. §65-2-102.

1220-4-1-.07 SPECIAL CONTRACTS.

- (1) Special contracts between public utilities and certain customers prescribing and providing rates, services and practices not covered by or permitted in the general tariffs, schedules or rules filed by such utilities are subject to supervision, regulation and control by the Authority. A copy of such special agreements shall be filed, subject to review and approval.

Authority: T.C.A. §65-2-102.

1220-4-1-.08 NAME CHANGES FOR PUBLIC UTILITIES.

- (1)
 - (a) Any public utility (i) changing its registered business name, (ii) adopting an assumed business name, or (iii) discontinuing the use of an assumed business name shall notify the Authority at least thirty (30) days before offering services to Tennessee customers under a new name.
 - (b) A public utility certificated in the state of Tennessee pursuant to T.C.A. § 65-4-201 but not presently offering services to Tennessee customers shall notify the Authority of any change referenced above within thirty (30) days of the change.
- (2) A notification of any change referenced in subsection (1)(a) above shall include all of the following:
 - (a) For public utilities operating as either a corporation, limited liability company, or limited liability partnership, verification that the public utility has registered the changed or assumed business name with the Office of the Tennessee Secretary of State in compliance with the requirements of T.C.A. §§ 48-14-103, 48-54-103, 48-207-103, or 61-2-103;
 - (b) For public utilities providing telecommunications services in the state of Tennessee, verification that the changed or assumed business name has been recorded in the public utility's surety bond or letter of credit obtained pursuant to T.C.A. § 65-4-125;
 - (c) If the public utility is currently serving end user customers in the state of Tennessee, a copy of the proposed notice to be sent to the utility's Tennessee customers for the purpose of informing these customers of the anticipated change in business name, adoption of an assumed business name, or removal of an assumed business name; and
 - (d) If the public utility intends to use more than one business name to provide services in the state of Tennessee, a notice specifying which services will be provided to customers under each name.
- (3) At its own discretion, the Authority may waive any of the requirements of subsection (2) of this rule for good cause.

Authority: T.C.A. §§ 48-14-103, 48-54-103, 48-207-103, and 61-2-103, 63-2-102, 65-2-101, 65-4-104 and 65-4-201.

1220-4-1-.09 PIPELINE SAFETY RULE.

- (1) "The Minimum Federal Safety Standards for the transportation of natural and other gas by pipeline (Title 49, Chapter 1, Part 192) as published in the Federal Register Vol. 35, Number 161 shall be the standard for use by gas transmission and distribution systems within the State of Tennessee."

[With the exception of paragraph (b) of Section 192-455 (Title 49, Chapter 1, Part 192) as published in the Federal Register Volume 36, Number 126, which is deleted.]

- (2) "The present American Standard Code for Pressure Piping, Gas Transmission and Distribution Piping System (ASA - B 31.8), and all supplements and amendments thereto, shall be used to supplement this rule, insofar as the same does not conflict with Part 192." (Cross reference -1220-4-5-.43 - 1220-4-5-.44).

Authority: T.C.A. §65-2-102.

1220-4-1-.10 REPORTS-UNIFORM FINANCIAL REPORT FORMS.

(1) Reports

All electric, telephone, gas, water, and other public utility companies as set forth in T.C.A. §65-4-101, and with operating revenues in excess of \$250,000 annually, shall submit financial statements to the Authority monthly, and public utilities with operating revenues of less than \$250,000 annually shall submit quarterly financial statements to the Authority, except as otherwise provided in this rule.

(2) Type of Public Utilities

(a) Telephone Utility Companies

1. All companies subject to the jurisdiction of the Authority as set forth in T.C.A. §65-4-101, which are either a subsidiary of a holding company or have in excess of 6,000 access lines shall submit monthly to this Authority Monthly Report Form TRA-3.01 within sixty (60) days after the end of the month covered by the report. The Monthly Report Form shall be completed by each company to the extent data is available.
2. All companies subject to the jurisdiction of the Authority as set forth in T.C.A. §65-4-101, which are not a subsidiary of a holding company and have less than 6,000 access lines shall submit quarterly to this Authority Quarterly Report Form TRA-3.02 within sixty (60) days after the end of the quarter covered by the report. The Quarterly Report Form shall be completed by each company to the extent data is available.
3. All companies operating pursuant to price regulation under T.C.A. § 65-5-109 shall submit to the Authority the above report annually, for the twelve months ending December, or for the company's fiscal year, if different, within sixty (60) days after the end of the twelve (12) month period covered by the report.

(b) Gas Utility Companies

1. All companies subject to the jurisdiction of this Authority, as set forth in T.C.A. §65-4-101, which had operating revenues for the preceding year in excess of \$1,500,000 shall submit monthly to this Authority, Monthly Report Form TRA-3.03 sixty (60) days after the end of the month covered by the report.
2. All companies subject to the jurisdiction of this Authority, as set forth in T.C.A. §65-4-101, which had operating revenues for the preceding year of \$1,500,000 or less shall submit quarterly to this Authority, Quarterly Report Form TRA-3.04 sixty (60) days after the end of the quarter covered by the report.

(c) Electric Utility Companies

1. All companies subject to the jurisdiction of this Authority, as set forth in T.C.A. §65-4-101, which had operating revenues from operations within Tennessee for the preceding year in excess of \$1,500,000 shall submit monthly to this Authority, Monthly Report Form TRA-3.05 sixty (60) days after the end of the month covered by the report.

(d) Water Utility Companies

1. All companies subject to the jurisdiction of this Authority, as set forth in T.C.A. §65-4-101, which had operating revenues for the preceding year in excess of \$1,500,000 shall submit monthly to this Authority, Monthly Report Form TRA-3.06 sixty (60) days after the end of the month covered by the report.
2. All companies subject to the jurisdiction of this Authority, as set forth in T.C.A. §65-4-101, which had operating revenues for the preceding year in excess of \$100,000 but less than \$1,500,000 shall submit to this Authority, Quarterly Report Form TRA-3.07 sixty (60) days after the end of the month covered by the report.

~~(e) Radio Common Carriers~~

- ~~1. All companies subject to the jurisdiction of this Authority, as set forth in T.C.A. §65-30-106, which have operating revenues for the preceding year in excess of \$1,500,000 shall submit monthly to this Authority, Monthly Report Form TRA-3.16, sixty (60) days after the end of the month covered by the report.~~

(f) Sewer Utility Companies

1. All companies subject to the jurisdiction of this Authority, as set forth in T.C.A. §65-4-101, which had operating revenues for the preceding year in excess of \$1,500,000, shall submit monthly to this Authority Monthly Report Form TRA-3.18 sixty (60) days after the end of the month covered by the report.
2. All companies subject to the jurisdiction of this Authority, as set forth in T.C.A. §65-4-101, which had operating revenues for the preceding year in excess of \$100,000 but less than \$1,500,000, shall submit quarterly to this Authority, Quarterly Report Form TRA-3.19, sixty (60) days after the end of the quarter covered by the report.

(3) Uniform Financial Report Forms

The following report forms which are attached to his order as Appendix A shall be used by the utility companies, as designated in paragraph (2) of this rule:

(a) Telephone Utility Companies

Form TRA-3.01
Form TRA-3.02

(b) Gas Utility Companies

Form TRA-3.03
Form TRA-3.04

(c) Electric Utility Companies

Form TRA-3.05

(d) Water Utility Companies

Form TRA-3.06

Form TRA-3.07

~~(e) Radio Common Carriers~~

~~Form TRA-3.16~~

~~Form TRA-3.17~~

(f) Sewer Utility Companies

Form TRA-3.18

Form TRA-3.19

Authority: T.C.A. §§65-2-102, 65-4-401, 65-4-101, 65-4-104, 65-4-111, and 65-5-109.

1220-4-1-11 UNIFORM SYSTEM OF ACCOUNTING.

(1) The following uniform system of accounting will be followed by utilities and other companies making periodic reports to the Authority:

- (a) For Classes A and B telephone companies - Uniform System of Accounts as adopted and amended by the Federal Communications Commission.
- (b) For Classes C and D telephone companies - Uniform System of Accounts as adopted and amended by the Federal Communications Commission.
- (c) For Classes A and B gas companies - Uniform System of Accounts as adopted by the National Association of Railroad and Utilities Commissioners as revised June 30, 1972, and any amendments or revisions pertaining thereto.
- (d) For Classes C and D gas companies - Uniform System of Accounts as adopted by the National Association of Railroad and Utilities Commissioners as revised June 30, 1972, and any amendments or revisions pertaining thereto.
- (e) For Classes A and B electric companies - Uniform System of Accounts as adopted by the National Association of Railroad and Utilities Commissioners as revised June 30, 1972, or any amendments or revisions pertaining thereto.
- (f) For Classes C and D electric companies - Uniform System of Accounts as adopted by the National Association of Railroad and Utilities Commissioners as revised June 30, 1972, or any amendments or revisions pertaining thereto.
- (g) For Classes A, B, and C water companies - Uniform System of Accounts as adopted and amended by the National Association of Railroad and Utilities Commissioners.
- (h) For Classes A, B, and C sewer companies - Uniform System of Accounts as adopted and amended by the National Association of Railroad and Utilities Commissioners.

~~(i) For Radio Common Carriers:~~

- ~~1. For Radio Common Carriers The Uniform System of Accounts for Radio Common Carriers as adopted by the National Association of Regulatory Utility~~

~~Commissioners in 1976, and all amendments or revisions pertaining thereto is adopted herewith with the exception of pages 33 and 34. The Authority has revised these pages to make them more applicable to the tax statutes of the State of Tennessee.~~

2. Provided, however, that the carriers are permitted to subdivide Account 220, Mobile Equipment-One-Way Service-Non-Voice, and Account 221, Mobile Equipment One-Way Service-Voice, so as to provide a reasonable estimate of the cost of each type of equipment purchased prior to the effective date of this rule provided further, that the words "Investment Credits" used in the title and text of Account 306, Investment Credits-Net, denotes investment tax credits resulting from the operation of applicable Federal income tax statutes.
- (2) That this rule shall not apply to utilities deriving less than one percent (1%) of their total gross operating revenues from business in Tennessee and they shall be permitted to keep their accounting records in accordance with the system of accounts prescribed by the State Authority of the State in which a majority of their gross revenues are derived.
 - (3) That each utility subject to the jurisdiction of this Authority shall notify this Authority within thirty (30) days from the date of this order of its election to adopt either the "service life flow-through" method of accounting or the "initial year flow-through" method of accounting for the treatment of the investment tax credit as provided by Section 38 of the 1954 Internal Revenue Code, as amended, and specifically the 1962 and 1964 Revenue Acts.
 - (4) That utilities deriving less than one percent (1%) of their total gross operating revenues from business in Tennessee shall be permitted to keep their accounting records in accordance with the system of accounts prescribed by the State Authority of the State in which a majority of their gross revenues are derived.
 - (5) That the election once made by a utility shall not be subject to change without prior formal approval of this Authority.

Authority: T.C.A. §§65-4-101, 65-4-104, 65-4-111, and 65-2-102.

1220-4-1-.12 REPEALED.

Authority: T.C.A. §65-2-102. **Administrative History:** Original rule certified May 9, 1974. Amendment filed March 12, 1981; effective April 27, 1981. Repeal filed October 29, 1993; effective March 1, 1994

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Herbert H. Hilliard, Chairman	X				N/A
David F. Jones, Vice-Chairman	X				
Kenneth C. Hill, Director	X				
Robin Bennett, Director	X				
James M. Allison, Director	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Regulatory Authority on July 22, 2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 03/31/14

Rulemaking Hearing(s) Conducted on: (add more dates). 06/16/14

Date: 12/22/14

Signature: Earl Taylor

Name of Officer: Earl R. Taylor

Title of Officer: Executive Director, Tennessee Regulatory Authority



Subscribed and sworn to before me on: 12/22/2014

Notary Public Signature: Ector Lawless

My commission expires on: 1/9/2018

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H/Slatery, III
Attorney General and Reporter
1/23/15

Date

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Filed with the Department of State on: 2/11/15

Effective on: 5/12/15

Tre Hargett
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

<u>AGENCY:</u>	Tennessee Motor Vehicle Commission
<u>SUBJECT:</u>	Expedited Licensure for Military Applicants and Spouses.
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Section 4-3-1304(d)
<u>EFFECTIVE DATES:</u>	May 12, 2015 through June 30, 2016
<u>FISCAL IMPACT:</u>	None
<u>STAFF RULE ABSTRACT:</u>	This rule provides for a system of expedited licensure for military applicants and spouses of military members as required by Tennessee Code Annotated, Section 4-3-1304(d).

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public comments submitted in writing or presented orally at the rulemaking hearing.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Regulatory Flexibility Analysis - Methods of Reducing Impact of Rules on Small Businesses:

1. The extent to which the rule may overlap, duplicate, or conflict with other federal, state, and local governmental rules:

There will be no overlap, duplication, or conflict with other federal, state, or local governmental rules.
2. Clarity, conciseness, and lack of ambiguity in the rules:

The rules are clear and concise. Further, the rules are not open to different interpretations.
3. The establishment of flexible compliance and/or reporting requirements for small businesses:
The rules allow for reasonable and flexible standards for applicants to provide the commission with required documentation in order to claim the exemptions noted in the rule.
4. The establishment of friendly schedules or deadlines for compliance and reporting requirements for small businesses:

The rule applies to individuals only and as such does not differentiate between any class of applicant or licensee based upon size.
5. The consolidation or simplification of compliance or reporting requirements for small businesses:

The rule applies to individuals only and as such does not differentiate between any class of applicant or licensee based upon size. The rule is written to allow for reasonable standards amongst all individuals,
6. The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule:

The rule applies to individuals only and as such does not differentiate between any class of applicant or licensee based upon size. The rule is written to allow for reasonable standards amongst all individuals.
7. The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

These rules do not result in the unnecessary creation of entry barriers or other effects that will stifle entrepreneurial activity, curb innovation, or increase costs.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly). The rules have no projected impact on local governments.

Economic Impact Statement:

1. Types of small businesses directly affected:
There is no foreseeable impact specifically affecting small businesses in general.
2. Projected reporting, recordkeeping, and other administrative costs:
There is no foreseeable alteration in small business reporting or recordkeeping that will result from the promulgation of these rules.
3. Probable effect on small businesses:
There is no foreseeable substantial effect on small businesses by the imposition of the rules.
4. Less burdensome, intrusive, or costly alternative methods:
The proposed changes to the existing rules are minimally burdensome/intrusive to small businesses.
5. Comparison with federal and state counterparts:
There are no federal counterparts to the issues addressed by these rules.
6. Effect of possible exemption of small businesses:
An exemption of small businesses from the aforementioned requirements could be a detriment to health, safety and welfare of the citizens of Tennessee.

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Sequence Number: 02-08-15
Rule ID(s): 5876
File Date: 2/11/15
Effective Date: 5/12/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	<u>Tennessee Motor Vehicle Commission</u>
Division:	<u>Department of Commerce and Insurance</u>
Contact Person:	<u>Kimberly Cooper</u>
Address:	<u>500 James Robertson Parkway, Nashville, TN</u>
Zip:	<u>37243</u>
Phone:	<u>(615) 253-5251</u>
Email:	<u>Kim.Cooper@tn.gov</u>

Revision Type (check all that apply):

☐ Amendment
☒ New
☐ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
<u>0960-01</u>	<u>General Rules</u>
Rule Number	Rule Title
<u>0960-01-.28</u>	<u>Military Applicants – Spouses – Expedited Licensure</u>

Chapter Number	Chapter Title
Rule Number	Rule Title

Table of Contents

0960-01-.28 Military Applicants – Spouses – Expedited Licensure

0960-01-.28 Military Applicants – Spouses – Expedited Licensure

- (1) An applicant for licensure meeting the requirements of T.C.A. § 4-3-1304(d)(1) may:
- (a) Be issued a license upon application and payment of all fees required for the issuance of such license if, in the opinion of the commission, the requirements for licensure of such other state are substantially equivalent to that required in Tennessee; or
 - (b) Be issued a temporary permit as described herein if the commission determines that the applicant's license does not meet the requirements for substantial equivalency, but that the applicant could perform additional acts, including – but not limited to - education, training, or experience, in order to meet the requirements for the license to be substantially equivalent. The commission may issue a temporary permit upon application and payment of all fees required for issuance of a regular license of the same type which shall allow such person to perform services as if fully licensed for a set period of time that is determined to be sufficient by the commission for the applicant to complete such requirements.
 - (i) After completing those additional requirements and providing the commission with sufficient proof thereof as may be required, a full license shall be issued to the applicant with an issuance date of the date of the original issuance of the temporary permit and an expiration date as if the full license had been issued at that time.
 - (ii) A temporary permit shall be issued for a period no longer than the length of a renewal cycle for a full license of the same type.
 - (iii) A temporary permit shall expire upon the date set by the commission and shall not be subject to renewal except through the completion of the requirements for substantial equivalency as required by the commission or by an extension of time granted for good cause by the commission.
 - (iv) Should an extension to a temporary permit cause the permit to be in effect longer than the renewal cycle of a full license, then the holder of the temporary permit shall file a renewal application with such documentation and fees, including completion of continuing education, as are required by the commission for all other renewals of a full license of the same type.
- (2) Military education, training, or experience completed by a person described at T.C.A. § 4-3-1304(d)(1)(B)(ii)(a)-(c) shall be accepted toward the qualifications, in whole or in part, to receive any license issued by the commission if such military education, training, or experience is determined by the commission to be substantially equivalent to the education, training, or experience required for the issuance of such license.
- (3) Any licensee who is a member of the national guard or a reserve component of the armed forces of the United States called to active duty whose license expires during the period of activation shall be eligible

for renewal upon the licensee being released from active duty without payment of late fees or other penalties.

- (a) The license, certification or permit shall be eligible for renewal pursuant to this subsection for six (6) months from the person's release from active duty.
- (b) Any person renewing under this subsection shall provide the commission such supporting documentation evidencing activation as may be required by the commission prior to renewal of any license pursuant to this subsection.

Authority: Tenn. Public Acts 2013, ch. 122, T.C.A. § 55-17-107, 4-3-1304

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Eddie Roberts	X				
Nate Jackson	X				
Reed Trickett	X				
John Murrey	X				
Stan McNabb	X				
Mark Pirtle	X				
Joe Clayton	X				
Ronnie Fox	X				
Lynn Webb	X				
Don Parr	X				
Kevin Cullum				X	
Farrar Schaeffer				X	
Donnie Hatcher				X	
Billy Keck				X	
George Bass				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Motor Vehicle Commission on July 14, 2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: May 15, 2014

Rulemaking Hearing(s) Conducted on: (add more dates). July 14, 2014

Date: December 5, 2014

Signature: Kimberly Cooper

Name of Officer: Kimberly Cooper

Assistant General Counsel, Department of Commerce &

Title of Officer: Insurance



Subscribed and sworn to before me on: Dec. 5, 2014

Notary Public Signature: Vanessa Huntsman

My commission expires on: Nov. 21, 2017

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
12/23/2014
Date

Department of State Use Only

Filed with the Department of State on: 2/11/15

Effective on:

5/12/15

Tre Hargett

Tre Hargett
Secretary of State

SECRETARY OF STATE
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G.O.C. STAFF RULE ABSTRACT

<u>AGENCY:</u>	Tennessee State Board of Accountancy
<u>SUBJECT:</u>	Expedited Licensure for Military Applicants and Spouses; Disciplinary Action; Continuing Education
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Sections 4-3-1304(d) and 62-1-105(e)
<u>EFFECTIVE DATES:</u>	May 12, 2015 through June 30, 2016
<u>FISCAL IMPACT:</u>	None
<u>STAFF RULE ABSTRACT:</u>	<p>The rules provide a system of expedited licensure for military members and their spouses as required by Tennessee Code Annotated, Section 4-3-1304(d).</p> <p>The rules clarify that failure to pay the proessional privilege tax is grounds for disciplinary action against a licensee.</p> <p>The rules specify subjects of continuing professional education (CPE) hours that licensees will be required to complete for failing to timely meet CPE requirements. The rules require that CPE hours that are assessed as a penalty must be completed within 180 days of notice of a deficiency.</p>

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public comments submitted in writing or presented orally at the rulemaking hearing.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

There will be no overlap, duplication, or conflict with other federal, state or local governmental rules,

2. Clarity, conciseness, and lack of ambiguity in the rule or rules:

The rules are clear in purpose and intended execution. The implementation of the proposed rule change will increase clarity and conciseness and decrease ambiguity in the rules as a whole.

3. Flexible compliance and/or reporting requirements for small businesses:

These rules do not create any new compliance or reporting requirements.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

The proposed “military applicant” rule will expedite the licensure process for certain military personnel, and in some cases, for the spouses of military personnel. Otherwise, these rules do not set out compliance or reporting requirements,

5. Consolidation or simplification of compliance or reporting requirements:

There are no new compliance and reporting requirements as a result of this amendment.

6. Performances standards for small businesses:

These rules do not set out operational or design standards. As such, there are no performance standards for small businesses as a result of this amendment.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

It does not appear that these amendments will erect barriers or have other effects which would stifle entrepreneurial activity, curb innovation, or increase costs.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments,” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule changes are not projected to have any impact on local governments.

7

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Sequence Number: 02-09-15
Rule ID(s): 5877-5879
File Date: 2/11/15
Effective Date: 5/12/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee State Board of Accountancy
Division: Division of Regulatory Boards, Department of Commerce and Insurance
Contact Person: Chris Whittaker
Address: 500 James Robertson Parkway, Nashville, TN
Zip: 37243
Phone: (615) 741-3072
Email: Chris.Whittaker@tn.gov

Revision Type (check all that apply):

- ☒ Amendment
☐ New
☐ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0020-01	Licensing and Registration Requirements
Rule Number	Rule Title
0020-01-.08	Renewal of Licenses

Chapter Number	Chapter Title
0020-04	Disciplinary Action and Civil Penalties
Rule Number	Rule Title
0020-04-.03	Grounds for Discipline Against Licensees

Chapter Number	Chapter Title
0020-05	Continuing Education
Rule Number	Rule Title
0020-05-.08	Failure to Meet CPE Requirements

Chapter 0020-01
Board of Accountancy, Licensing and Registration Requirements
Amendments

Rule 0020-01-.08 Renewal of Licenses is amended by adding a new paragraph (8) as follows:

- (8) An applicant for licensure meeting the requirements of T.C.A. § 4-3-1304(d)(1) may:
- (a) Be issued a license under this chapter upon application and payment of all fees required for issuance of a regular license of the same type if, in the opinion of the Board, the requirements for certification or licensure in the state where the applicant is licensed are substantially equivalent to that required in Tennessee; or
 - (b) Be issued a temporary permit as described herein if the Board determines that the applicant's license does not meet the requirements for substantial equivalency, but that the applicant could perform additional acts, including - but not limited to - education, training, or experience, in order to meet the requirements for the license to be substantially equivalent. The Board may issue a temporary permit upon application and payment of all fees required for issuance of a regular license of the same type, which shall allow such person to perform services as if fully licensed for a set period of time that is determined to be sufficient for the applicant to complete such requirements.
 1. After completing those additional requirements and providing the Board with sufficient proof thereof as may be required, a full license shall be issued to the applicant with an issuance date of the date of the original issuance of the temporary permit and an expiration date as if the full license had been issued at that time.
 2. A temporary permit shall be issued for a period of less than the length of a renewal cycle for a full license.
 3. A temporary permit shall expire upon the date set by the Board and shall not be subject to renewal except through the completion of the requirements for substantial equivalency as required by the Board or by an extension of time granted for good cause by the Board.
 4. Should an extension to a temporary permit cause the permit to be in effect longer than the renewal cycle of a full license, the holder of the temporary permit shall file a renewal application with such documentation and fees, including completion of continuing education, as are required by the Board for all other renewals of a full license of the same type.
- (9) Military education, training, or experience completed by a person described at T.C.A. § 4-3-1304(d)(1)(B)(ii)(a)-(c) shall be accepted toward the qualifications, in whole or in part, to receive any license issued by the Board if such military education, training, or experience is determined by the Board to be substantially equivalent to the education, training, or experience required for the issuance of such license.
- (10) Any licensee who is a member of the National Guard or a reserve component of the armed forces of the United States called to active duty whose license expires during the

period of activation shall be eligible for renewal for a period of six (6) months after the licensee is released from active duty without:

- (a) Payment of late fees or other penalties;
 - (b) Obtaining continuing education credits when:
 - 1. Circumstances associated with the person's military duty prevented the obtaining of continuing education credits and a waiver request has been submitted to the Board; or
 - 2. The person performs the licensed or certified occupation as part of such person's military duties and provides documentation sufficient to demonstrate such to the Board, or;
 - (c) Performing any other similar act typically required for the renewal of a license or certification.
- (11) Any person renewing under paragraph (10) shall provide the Board such supporting documentation evidencing activation as may be required by the Board prior to renewal of any license pursuant to that paragraph.

Authority: T.C.A. §§ 62-1-105, 62-1-107, and 4-3-1304.

Chapter 0020-04
Board of Accountancy, Disciplinary Action and Civil Penalties

Amendments

Rule 0020-04-.03 Grounds for Disciplinary Action Against Licensees is amended by adding a new paragraph (1)(c)9. to read as follows:

9. Failure to timely pay professional privilege tax as required by law.

Authority: T.C.A. §§ 62-1-105, 62-1-111, 62-1-113, 62-1-117, 67-4-1702, and 67-4-1704.

Chapter 0020-05
Board of Accountancy, Continuing Education

Amendments

Rule 0020-05-.08 Failure to Meet CPE Requirements is amended by deleting the paragraphs (1)-(3) in their entirety and amending the rule to read as follows:

- ~~(1) A penalty of eight (8) additional CPE hours will be assessed against license holders for each year they fail to meet the twenty (20) hour one (1) year minimum required by Rule 0020-05-.03 unless an extension of time under 0020-05-.07 is granted by the Board.~~
- ~~(2) A penalty of eight (8) additional CPE hours will be assessed against those license holders who fail to meet the eighty (80) hour two (2) year minimum required by Rule 0020-05-.03 unless an extension of time under 0020-05-.07 is granted by the Board.~~
- ~~(3) Any penalty assessed under this rule shall be completed within one hundred eighty (180) days of the end of notification of the deficiency.~~
- (1) A penalty of (8) additional CPE hours will be assessed against those license holders who fail to timely complete the eighty (80) hour two (2) year minimum required by Rule 0020-5-.03 unless

an extension of time under Rule 0020-5-.07 is granted by the Board.

- (2) A penalty of eight (8) additional CPE hours will be assessed against those license holders who fail to timely complete the forty (40) hour requirement in the subject areas of accounting, accounting ethics, attest, taxation, or management advisory services required by Rule 0020-5-.03 unless an extension of time under Rule 0020-5-.07 is granted by the Board.
- (3) A penalty of (8) additional CPE hours will be assessed against those license holders who fail to timely complete at least twenty (20) hours in each year of the biennial renewal period as required by Rule 0020-5-.03 unless an extension of time under Rule 0020-5-.07 is granted by the Board.
- (4) A penalty of (8) additional CPE hours will be assessed against those license holders who perform the attest function who fail to timely complete the twenty (20) hour requirement in the subject areas of attest and accounting theory and practice required by Rule 0020-5-.03 unless an extension of time under Rule 0020-5-.07 is granted by the Board.
- (5) A penalty of eight (8) additional CPE hours will be assessed against those license holders who fail to timely complete the two (2) hour state specific continuing professional education ethics course required by Rule 0020-5-.03 unless an extension of time under Rule 0020-5-.07 is granted by the Board.
- (6) A licensee who is assessed a penalty under this rule shall complete such penalty and shall submit proof of completion of such penalty to the Board no later than one hundred and eighty (180) days from the date the Board notifies the licensee of the deficiency.

Authority: T.C.A. §§ 62-1-105, 62-1-107, and 62-1-111.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Trey Watkins				X	
Casey Stuart	X				
Bill Blaufuss	X				
Vic Alexander	X				
Gay Moon	X				
Jennifer Brundige	X				
Stephen Eldridge	X				
Henry Hoss	X				
Gabe Roberts	X				
Don Royston	X				
Charlene Spiceland	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee State Board of Accountancy on 10/17/2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/13/14

Rulemaking Hearing(s) Conducted on: (add more dates). 10/17/14

Date: 12/22/2014

Signature: [Signature]

Name of Officer: Christopher R. Whittaker, Esq.

Title of Officer: Asst. General Counsel, Tennessee Dept. of Commerce & Insurance

Subscribed and sworn to before me on: December 22, 2014

Notary Public Signature: [Signature]

My commission expires on: September 11, 2017



My Commission Expires SEPT. 11, 2017


All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Signature]
Herbert H. Slatery III
Attorney General and Reporter
January 6, 2015
Date

Department of State Use Only

Filed with the Department of State on: 2/11/15

Effective on: 5/12/15



Tre Hargett
Secretary of State

SECRETARY OF STATE
RECEIVED

2015 FEB 11 PM 2:08

G.O.C. STAFF RULE ABSTRACT

<u>DEPARTMENT:</u>	Mental Health and Substance Abuse Services; Health
<u>SUBJECT:</u>	Controlled Substances
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Section 39-17-403
<u>EFFECTIVE DATES:</u>	May 25, 2015 through June 30, 2016
<u>FISCAL IMPACT:</u>	None
<u>STAFF RULE ABSTRACT:</u>	This rule chapter revises the list of controlled substances to ensure consistency between federal regulations and state law.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

See attached Memo.



**STATE OF TENNESSEE
DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES**

6th FLOOR, ANDREW JACKSON BUILDING
600 DEADERICK STREET
NASHVILLE, TENNESSEE 37243

BILL HASLAM
GOVERNOR

E. DOUGLAS VARNEY
COMMISSIONER

MEMORANDUM

TO: E. Douglas Varney
Commissioner, TDMHSAS

FROM: Kurt Hippel
Director of Legislation and Rules, TDMHSAS

DATE: November 17, 2014

RE: Public Hearing for 0940-06-01 Controlled Substances rulemaking activity

On Monday, November 17, 2014, the Tennessee Department of Mental Health and Substance Abuse Services ("the Department") held a public hearing re: proposed changes to Rules Chapter 0940-06-01 Controlled Substances. The Department did not receive any oral or written comments during this public hearing or during the time period designated for accepting comments re: Rules Chapter 0940-06-01 Controlled Substances.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

These rules will not affect small businesses. Although, some pharmacies qualify as small businesses, the changes to the controlled substances schedules promulgated by these rules should not change the daily operations of those pharmacies.

Economic Impact Statement

- 1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

These rules will not affect small businesses.

- 2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

These rules will not affect reporting, recordkeeping, or other administrative costs of small businesses.

- 3) A statement of the probable effect on impacted small businesses and consumers.

These rules will not affect small businesses.

- 4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

There is no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rules.

- 5) A comparison of the proposed rule with any federal or state counterparts.

These rules compare favorably with the federal controlled substances schedules as T.C.A. § 39-17-403 requires the Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS) to schedule substances if those substances have been designated as controlled substances by federal regulations promulgated by the U.S. Department of Justice Drug Enforcement Administration (DEA), unless TDMHSAS, upon agreement with the Tennessee Department of Health (TDH), decides otherwise.

- 6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

These rules will not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

TDMHSAS estimates that these rules will not have a projected financial impact on local governments.

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For Department of State Use Only

Sequence Number: 02-14-15
Rule ID(s): 5881
File Date: 2/24/15
Effective Date: 5/25/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Mental Health and Substance Abuse Services
Division:	Division of Substance Abuse Services
Contact Person:	R. Kurt Hippel, Director, Office of Legislation and Rules
Address:	500 Deaderick Street, 5 th Floor, Nashville, TN
Zip:	37243
Phone:	615-532-6520
Email:	Kurt.Hippel@tn.gov

Revision Type (check all that apply):

- ☐ Amendment
☒ New
☒ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0940-06-01	Controlled Substances
Rule Number	Rule Title
0940-06-01-.01	Controlled Substances in Schedule I
0940-06-01-.02	Controlled Substances in Schedule II
0940-06-01-.03	Controlled Substances in Schedule III
0940-06-01-.04	Controlled Substances in Schedule IV
0940-06-01-.05	Controlled Substances in Schedule V
0940-06-01-.06	Controlled Substances in Schedule VI
0940-06-01-.07	Controlled Substances in Schedule VII
0940-06-01-.08	Non-Narcotic Substances Excluded from Controlled Substances
0940-06-01-.09	Chemical preparations excluded from Controlled Substances
0940-06-01-.10	Veterinary anabolic steroid implant products excluded from Controlled Substances
0940-06-01-.11	Prescription products excluded from Controlled Substances
0940-06-01-.12	Anabolic steroid products excluded from Controlled Substances
0940-06-01-.13	Certain cannabis plant material, and products made therefrom, excluded from Controlled Substances

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

0940-06-01-.01 Controlled Substances in Schedule I.

- (1) ~~Schedule I consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.~~
- (2) ~~Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, salts is possible within the specific chemical designation. For the purposes of subparagraph (hh) 3-Methybfentanyl, only, the term isomer includes the optical and geometric isomers.~~
 - (a) ~~Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide)..... 9815~~
 - (b) ~~Acetylmethadol..... 9601~~
 - (c) ~~Allylprodine..... 9602~~
 - (d) ~~Alphacetylmethadol (except levo-alpha-cetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM)..... 9603~~
 - (e) ~~Alphameprodine..... 9604~~
 - (f) ~~Alphamethadol..... 9605~~
 - (g) ~~Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)-ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine..... 9814~~
 - (h) ~~Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)-ethyl-4-piperidinyl]-N-phenylpropanamide)..... 9832~~
 - (i) ~~Benzethidine..... 9606~~
 - (j) ~~Betacetylmethadol..... 9607~~
 - (k) ~~Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide)..... 9830~~
 - (l) ~~Beta-hydroxy-3-methylfentanyl..... 9831~~
~~Other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide~~
 - (m) ~~Betameprodine..... 9608~~
 - (n) ~~Betamethadol..... 9609~~
 - (o) ~~Betaprodine..... 9611~~
 - (p) ~~Clonitazene..... 9612~~
 - (q) ~~Dextromoramide..... 9613~~
 - (r) ~~Diampromide..... 9615~~
 - (s) ~~Diethylthiambutene..... 9616~~

(t)	Difenoxin.....	9168
(u)	Dimenoxadol.....	9617
(v)	Dimepheptanol.....	9618
(w)	Dimethylthiambutene.....	9619
(x)	Dioxaphetyl butyrate.....	9621
(y)	Dipipanone.....	9622
(z)	Ethylmethylthiambutene.....	9623
(aa)	Etonitazene.....	9624
(bb)	Etoperidine.....	9625
(cc)	Furethidine.....	9626
(dd)	Hydroxypethidine.....	9627
(ee)	Ketobemidone.....	9628
(ff)	Levomoramide.....	9629
(gg)	Levophenacymorphan.....	9631
(hh)	3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide).....	9813
(ii)	3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).....	9833
(jj)	Morpheridine.....	9632
(kk)	MPPP (1-methyl-4-phenyl-4-propionoxypiperidine).....	9661
(ll)	Noracymethadol.....	9633
(mm)	Norlevorphanol.....	9634
(nn)	Normethadone.....	9635
(oo)	Norpipanone.....	9636
(pp)	Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide.....	9812
(qq)	PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine).....	9663
(rr)	Phenadoxone.....	9637
(ss)	Phenampromide.....	9638
(tt)	Phenomorphan.....	9647
(uu)	Phenoperidine.....	9641
(vv)	Piritramide.....	9642

(ww)	Proheptazine.....	9643
(xx)	Properidine.....	9644
(yy)	Propiram.....	9649
(zz)	Racemoramide.....	9645
(aaa)	Thiofentanyl (N-phenyl N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide.....	9835
(bbb)	Tilidine.....	9750
(ccc)	Trimeperidine.....	9646

(3) — Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a)	Acetorphine.....	9319
(b)	Acetyldihydrocodeine.....	9051
(c)	Benzylmorphine.....	9052
(d)	Codeine methylbromide.....	9070
(e)	Codeine N-Oxide.....	9053
(f)	Cyprenorphine.....	9054
(g)	Desomorphine.....	9055
(h)	Dihydromorphine.....	9145
(i)	Drotebanol.....	9335
(j)	Etorphine (except hydrochloride salt).....	9056
(k)	Heroin.....	9200
(l)	Hydromorphenol.....	9301
(m)	Methyldesorphine.....	9302
(n)	Methyldihydromorphine.....	9304
(o)	Morphine methylbromide.....	9305
(p)	Morphine methylsulfonate.....	9306
(q)	Morphine N-Oxide.....	9307
(r)	Myrophine.....	9308
(s)	Nicocodeine.....	9309
(t)	Nicomorphine.....	9312
(u)	Normorphine.....	9313

(v)	Pholcodine.....	9314
(w)	Thebacon.....	9315
(4)	Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers, is possible within the specified chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):	
(a)	Alpha-ethyltryptamine..... Other names: etryptamine; Monase; [alpha]-ethyl 1H-indole-3-ethanamine; 3-(2-aminobutyl)-indole; [alpha]-ET; and AET, ET, Trip.	7249
(b)	Alpha-methyltryptamine..... Other name: AMT.	7432
(c)	4-Bromo-2,5-dimethoxy-amphetamine..... Other names: 4-bromo-2,5-dimethoxy-[alpha]-methylphenethylamine; 4-bromo-2,5-DMA.	7391
(d)	4-Bromo-2,5-dimethoxyphenethylamine..... Other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus.	7392
(e)	Bufotenine..... Other names: 3-([beta]-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine	7433
(f)	Diethyltryptamine..... Other names: N,N-Diethyltryptamine; DET	7434
(g)	2,5-dimethoxyamphetamine..... Other names: 2,5-dimethoxy-[alpha]-methylphenethylamine; 2,5-DMA	7396
(h)	2,5-dimethoxy-4-ethylamphetamine..... Other name: DOET	7399
(i)	2,5-dimethoxy-4-(n)-propylthiophenethylamine..... Other name: 2C-T-7	7348
(j)	Dimethyltryptamine..... Other name: DMT	7435
(k)	Ethylamine analog of phencyclidine..... Other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)-ethylamine, N-(1-phenylcyclohexyl)-ethylamine, cyclohexamine, PCE	7455
(l)	Ibogaine..... Other names: 7-Ethyl-6,6[beta],7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido-[1',2':1,2]-azepino-[5,4-b]indole; Tabernanthe iboga.	7260
(m)	Lysergic acid diethylamide..... Other name: LSD	7315
(n)	Mescaline..... Other name: Constituent of "Peyote" cacti	7381
(o)	4-methoxyamphetamine.....	7411

	Other names: 4-methoxy-[alpha]-methylphenethylamine; paramethoxyamphetamine; PMA	
(p)	5-methoxy-3,4-methylenedioxy-amphetamine.....	7401
(q)	5-methoxy-N,N-diisopropyltryptamine.....	7439
	Other name: 5-MeO-DIPT	
(r)	5-methoxy-N,N-dimethyltryptamine.....	7431
	Other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT	
(s)	4-methyl-2,5-dimethoxy-amphetamine.....	7395
	Other names: 4-methyl-2,5-dimethoxy-[alpha]-methylphenethylamine, DOM, and STP	
(t)	3,4-methylenedioxy-amphetamine.....	7400
(u)	3,4-methylenedioxymethamphetamine.....	7405
	Other name: MDMA	
(v)	3,4-methylenedioxy-N-ethylamphetamine.....	7404
	Other names: N-ethyl-alpha-methyl-3,4-(methylenedioxy)phenethylamine, N-ethyl-MDA, MDE, MDEA	
(w)	3,4-Methylenedioxy-N-methylcathinone.....	7540
	Other names: Methyldone	
(x)	N-ethyl-3-piperidyl benzilate.....	7482
(y)	N-hydroxy-3,4-methylenedioxyamphetamine.....	7402
	Other names: N-hydroxy-alpha-methyl-3,4-(methylenedioxy)phenethylamine; N-hydroxy MDA	
(z)	N-methyl-3-piperidyl benzilate.....	7484
(aa)	Parahexyl.....	7374
	Other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl	
(bb)	Peyote.....	7415
	Meaning all parts of the plant presently classified botanically as <i>Lophophora williamsii</i> Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts. (Interprets 21 USC 812 (c), Schedule I (c) (12))	
(cc)	Psilocybin (constituent of magic mushrooms).....	7437
(dd)	Psilocyn (constituent of magic mushrooms).....	7438
(ee)	Pyrrolidine analog of phencyclidine (1-(1-phenylcyclohexyl)-pyrrolidine).....	7458
	Other names: PCPy; PHP	
(ff)	1-[1-(2-thienyl)cyclohexyl]-pyrrolidine.....	7473
	Other names: TCPy	
(gg)	4-methyl-N-methylcathinone.....	1248
	Other names: 4-methylmethcathinone; Methpadrone, 4-MMC; mephedrone	
(hh)	3,4-methylenedioxypropiovalerone.....	7535
	Other names: MDPV	

(ii)	2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E).....	7509
(jj)	2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D).....	7508
(kk)	2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C).....	7519
(ll)	2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I).....	7518
(mm)	2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2).....	7385
(nn)	2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4).....	7532
(oo)	2-(2,5-Dimethoxyphenyl)ethanamine (2C-H).....	7517
(pp)	2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N).....	7521
(qq)	2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P).....	7524
(rr)	Thiophene analog of phencyclidine..... Other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine; TPCP; TCP	7470
(ss)	3, 4, 5-trimethoxy-amphetamine.....	7390
(tt)	(1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers..... (Other names: UR-144, 1-pentyl-3-(2,2,3,3-tetramethylcyclopropyl)indole)	7144
(uu)	[1-(5-fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers..... (Other names: 5-fluoro-UR-144, 5-F-UR-144, XLR11, 1-(5-fluoro-pentyl)-3-(2,2,3,3- tetramethylcyclopropyl)indole)	7011
(vv)	N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers..... (Other names: APINACA, AKB48)	7048
(5)	Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specified chemical designation:	
(a)	gamma-hydroxybutyric acid..... Other names: GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium-oxybutyrate	2010
(b)	Mecloqualone.....	2572
(c)	Methaqualone.....	2565
(6)	Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:	
(a)	Aminorex..... Other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4, 5-dihydro-5-phenyl-2-oxazolamine	1585
(b)	Cathinone.....	1235

Other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone, constituent of *catha edulis* or "Khat" plant

(c)	Fenethylamine.....	1503
(d)	Methcathinone..... Other names: 2-(methylamino)-propiophenone; alpha-(methylamino)-propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR-1432), its salts, optical isomers and salts of optical isomers	1237
(e)	(+/-) cis-4-methylaminorex (cis isomer)..... Other name: (+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazoline	1590
(f)	N-Benzylpiperazine..... Other names: BZP, 1-benzylpiperazine	7493
(g)	N-ethylamphetamine.....	1475
(h)	N, N-dimethylamphetamine..... Other names: N, N-alpha-trimethyl-benzeneethanamine; N, N-alpha-trimethylphenethylamine	1480
(7)	Cannabimimetic agents. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:	
(a)	5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497)	7297
(b)	5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog)	7298
(c)	1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678)	7118
(d)	1-butyl-3-(1-naphthoyl)indole (JWH-073)	7173
(e)	1-hexyl-3-(1-naphthoyl)indole (JWH-019)	7019
(f)	1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200)	7200
(g)	1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250)	6250
(h)	1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081)	7081
(i)	1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122)	7122
(j)	1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398)	7398
(k)	1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201).....	7201
(l)	1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694).....	7694
(m)	1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR-19 and RCS-4)	7104
(n)	1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole 7008 (SR-18 and RCS-8)	7008
(o)	1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203)	7203

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.02 Controlled Substances in Schedule II.

- (1) Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.
- (2) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
 - (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate excluding apomorphine, dextrorphan, thebaine-derived butorphanol, nalmefene, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:

1.	Codeine.....	9050
2.	Dihydroetorphine.....	9334
3.	Ethylmorphine.....	9190
4.	Etorphine hydrochloride.....	9059
5.	Granulated opium.....	9640
6.	Hydrocodone.....	9193
7.	Hydromorphone.....	9150
8.	Metopon.....	9260
9.	Morphine.....	9300
10.	Opium extracts.....	9610
11.	Opium fluid.....	9620
12.	Oripavine.....	9330
13.	Oxycodone.....	9143
14.	Oxymorphone.....	9652
15.	Powdered opium.....	9639
16.	Raw opium.....	9600
17.	Thebaine.....	9333
18.	Tincture of opium.....	9630
 - (b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (2)(a) of this rule, except that these substances shall not include the isoquinoline alkaloids of opium.
 - (c) Opium poppy and poppy straw.
 - (d) Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves

(including cocaine (9041) and ecgonine (9180) and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

- (e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy)..... 9670

(3) Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(a)	Alfentanil.....	9737
(b)	Alphaprodine.....	9010
(c)	Anileridine.....	9020
(d)	Bezitramide.....	9800
(e)	Carfentanil.....	9743
(f)	Dextropropoxyphene (bulk, non dosage forms).....	9273
(g)	Dihydrocodeine.....	9120
(h)	Diphenoxylate.....	9170
(i)	Fentanyl.....	9801
(j)	Isomethadone.....	9226
(k)	Levo-alpha-acetylmethadol.....	9648
	Other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM	
(l)	Levomethorphan.....	9210
(m)	Levorphanol.....	9220
(n)	Metazocine.....	9240
(o)	Methadone.....	9250
(p)	Methadone-Intermediate, 4 cyano-2-dimethylamino-4,4-diphenyl butane.....	9254
(q)	Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid.....	9802
(r)	Pethidine (meperidine).....	9230
(s)	Pethidine-Intermediate A, 4 cyano-1-methyl-4-phenylpiperidine.....	9232
(t)	Pethidine-Intermediate B, ethyl 4-phenylpiperidine-4-carboxylate.....	9233
(u)	Pethidine-Intermediate C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.....	9234
(v)	Phenazocine.....	9715

(w)	Piminodine.....	9730
(x)	Racemethorphan.....	9732
(y)	Racemorphan.....	9733
(z)	Remifentanyl.....	9739
(aa)	Sufentanyl.....	9740
(bb)	Tapentadol.....	9780
(4)	Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:	
(a)	Amphetamine, its salts, optical isomers, and salts of its optical isomers.....	1100
(b)	Methamphetamine, its salts, isomers, and salts of its isomers.....	1105
(c)	Phenmetrazine and its salts.....	1631
(d)	Methylphenidate.....	1724
(e)	Lisdexamfetamine, its salts, isomers, and salts of its isomers.....	1205
(5)	Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:	
(a)	Amobarbital.....	2125
(b)	Glutethimide.....	2550
(c)	Pentobarbital.....	2270
(d)	Phencyclidine.....	7471
(e)	Secobarbital.....	2315
(6)	Hallucinogenic substances.	
(a)	Nabilone.....	7379
	Other names: (+/-) trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one;	
(7)	Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances:	
(a)	Immediate precursor to amphetamine and methamphetamine:	
1.	Phenylacetone.....	8501
	Other names: phenyl 2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;	
(b)	Immediate precursors to phencyclidine (PCP):	
1.	1-phenylcyclohexylamine.....	7460

2. 1-piperidinocyclohexanecarbonitrile (PCC).....8603

(c) Immediate precursor to fentanyl:

1. 4 anilino N-phenethyl 4-piperidine (ANPP).....8333

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-03 Controlled Substances in Schedule III.

(1) Schedule III consists of the drugs and other substances by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled-substance code number assigned to it by the Drug Enforcement Administration.

(2) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, positional or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under 21 C.F.R. 1308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.....1405

(b) Benzphetamine.....1228

(c) Clorpheniramine.....1645

(d) Clortermine.....1647

(e) Phendimetrazine.....1615

(3) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(a) Any compound, mixture, or preparation containing:

1. Amobarbital.....2126

2. Secobarbital.....2316

3. Pentobarbital.....2271
Or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(b) Any suppository dosage form containing:

1. Amobarbital.....2126

2. Secobarbital.....2316

3. Pentobarbital.....2271
Or any salt of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

(c) Any substance which contains any quantity of a derivative of barbituric acid or any salt

thereof. Examples include the following drugs:	2100
1. Aprobarbital	2100
2. Butabarbital (secbutabarbital)	2100
3. Butalbital	2100
4. Butobarbital (butethal)	2100
5. Talbutal	2100
6. Thiamylal	2100
7. Thiopental	2100
8. Vinbarbital	2100
(d) Chlorhexadol	2510
(e) Embutramide	2020
(f) Gamma hydroxybutyric acid preparations. Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under § 505 of the federal Food, Drug, and Cosmetic Act, codified in 21 U.S.C. § 301, et seq.	2012
(g) Ketamine, its salts, isomers, and salts of isomers	7285
Other name: (±) 2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone	
(h) Lysergic acid	7300
(i) Lysergic acid amide	7310
(j) Methypylon	2575
(k) Sulfondiethylmethane	2600
(l) Sulfonethylmethane	2605
(m) Sulfonmethane	2610
(n) Tiletamine and zolazepam or any salt of tiletamine or zolazepam	7295
1. Other name for a tiletamine-zolazepam combination product: Telazol®	
2. Other name for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone	
3. Other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo[3,4-e][1,4]diazepin-7(1H)-one and flupyzapon	
(4) Nalorphine	9400
(5) Narcotic Drugs, unless specifically excepted or unless listed in another schedule, means:	
(a) Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:	

1. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.....9803
 2. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.....9804
 3. Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.....9805
 4. Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts.....9806
 5. Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active non-narcotic ingredients in recognized therapeutic amounts.....9807
 6. Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, non-narcotic ingredients in recognized therapeutic amounts.....9808
 7. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than twenty five (25) milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.....9809
 8. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.....9810
- _____ (b) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts:
- _____ 1. Buprenorphine.....9064
- (6) Anabolic steroids. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters and ethers:
- _____ (a) Anabolic steroids.....4000
- _____ 1. 3[alpha],17[beta]-dihydroxy-5a-androstane;
- _____ 2. 5[alpha]-androstane-3,17-dione;
- _____ 3. 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy-5a-androstane;
- _____ 4. 17[alpha]-methyl-3[beta],17[beta]-dihydroxy-5a-androstane;
- _____ 5. 17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-4-ene;
- _____ 6. 17[alpha]-methyl-[Ddelta]1-dihydrotestosterone (17[beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one) (a.k.a. '17[alpha]-methyl-1-testosterone');
- _____ 7. 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one); _____

8. ~~1-androstenediol (3[alpha],17[beta]-dihydroxy-5[alpha]-androst-1-ene);~~
9. ~~1-androstenediol (3[beta],17[beta]-dihydroxy-5[alpha]-androst-1-ene);~~
10. ~~4-androstenediol (3[beta],17[beta]-dihydroxy-androst-4-ene);~~
11. ~~5-androstenediol (3[beta],17[beta]-dihydroxy-androst-5-ene);~~
12. ~~1-androstenedione (5[alpha]-androst-1-en-3,17-dione);~~
13. ~~4-androstenedione (androst-4-en-3,17-dione);~~
14. ~~5-androstenedione (androst-5-en-3,17-dione);~~
15. ~~3[beta],17-dihydroxy-5a-androstane;~~
16. ~~13[Beta]-ethyl-17[beta]-hydroxygon-4-en-3-one;~~
17. ~~Bolasterone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);~~
18. ~~Boldenone (17[beta]-hydroxyandrost-1,4-diene-3-one);~~
19. ~~Boldione (androsta-1,4-diene-3,17-dione);~~
20. ~~Calusterone (7[beta],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);~~
21. ~~Chlorotestosterone;~~
22. ~~Clostebol (4-chloro-17[beta]-hydroxyandrost-4-en-3-one);~~
23. ~~Dehydrochloromethyltestosterone (4-chloro-17[beta]-hydroxy-17[alpha]-methyl-androst-1,4-dien-3-one);~~
24. ~~[Delta]1-dihydrotestosterone (a.k.a. '1-testosterone') (17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);~~
25. ~~Desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol)
Other name: madoi~~
26. ~~4-Dihydrotestosterone (17[beta]-hydroxy-androstan-3-one)~~
27. ~~Drostanolone (17[beta]-hydroxy-2[alpha]-methyl-5[alpha]-androstan-3-one);~~
28. ~~Ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene);~~
29. ~~Fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta],17[beta]-dihydroxyandrost-4-en-3-one);~~
30. ~~Formebolone (2-formyl-17[alpha]-methyl-11[alpha],17[beta]-dihydroxyandrost-1,4-dien-3-one);~~
31. ~~Furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]furazan);~~
32. ~~4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxy-estr-4-en-3-one);~~
33. ~~4-hydroxytestosterone (4,17[beta]-dihydroxy-androst-4-en-3-one);~~
34. ~~Mestanolone (17[alpha]-methyl-17[beta]-hydroxy-5-androstan-3-one);~~
35. ~~Mesterolone (1[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]-androstan-3-one);~~

36. Methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-diene-3-one);
37. Methandranone;
38. Methandriol (17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-5-ene);
39. Methandrostenolone;
40. Methasterone (2[alpha],17[alpha]-dimethyl-5[alpha]-androstan-17[beta]-ol-3-one)
41. Methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);
42. Methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9(10)-dien-3-one);
43. Methyltestosterone (17[alpha]-methyl-17[beta]-hydroxyandrost-4-en-3-one);
44. Methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9,11-trien-3-one);
45. Mibolerone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyestr-4-en-3-one);
46. Nandrolone (17[beta]-hydroxyestr-4-en-3-one);
47. 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);
48. 19-nor-4-androstenediol (3[alpha],17[beta]-dihydroxyestr-4-ene);
49. 19-nor-4-androstenediol (3[beta],17[beta]-dihydroxyestr-4-ene);
50. 19-nor-5-androstenediol (3[alpha],17[beta]-dihydroxyestr-5-ene);
51. 19-nor-5-androstenediol (3[beta],17[beta]-dihydroxyestr-5-ene);
52. 19-nor-4-androstenedione (estr-4-en-3,17-dione);
53. 19-nor-5-androstenedione (estr-5-en-3,17-dione);
54. Norbolethone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one);
55. Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one);
56. Norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3-one);
57. Normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one);
58. Oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-[5[alpha]]-androstan-3-one);
59. Oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en-3-one);
60. Oxymetholone (17[alpha]-methyl-2-hydroxymethylene-17[beta]-hydroxy-[5[alpha]]-androstan-3-one);
61. Prostanazol (17[beta]-hydroxy-5[alpha]-androstan-3,2-c-pyrazole);
62. Stanolone;
63. Stanozolol (17[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]-androst-2-en-3,2-c-pyrazole);

64. Stenbolone (17[beta]-hydroxy-2-methyl-[5alpha]-androst-1-en-3-one);
65. Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
66. Testosterone (17[beta]-hydroxyandrost-4-en-3-one);
67. Tetrahydrogestrinone (13[beta], 17[alpha]-diethyl-17[beta]-hydroxygon-4,9,11-trien-3-one);
68. Trenbolone (17[beta]-hydroxyestr-4,9,11-trien-3-one);
- (b) Any salt, ester, or ether of a drug or substance described or listed in subparagraph (a), if such salt, ester, or isomer promotes muscle growth.
- (c) Anabolic steroids intended for administration to cattle or other non-human species are exempt from this rule unless such steroids are prescribed, dispensed, or distributed for human use.
- (d) Anabolic steroids with a combination of estrogens intended for administration to hormone deficient women are exempt from this rule unless such steroids are prescribed, dispensed, or distributed to women who are not hormone deficient.
- (7) Hallucinogenic Substances
- (a) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved product.....7369
Other names: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6-H-dibenzo [b,d]pyran-1-ol] or (-)-delta-9-(trans)-tetrahydrocannabinol]

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.04 Controlled Substances in Schedule IV.

- (1) Schedule IV consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal-controlled substance code number assigned to it by the Drug Enforcement Administration.
- (2) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
- (a) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.....9167
- (b) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).....9278
- (3) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- (a) Alprazolam.....2882
- (b) Barbital.....2145
- (c) Bromazepam.....2748
- (d) Camazepam.....2749

(e)	Carisoprodol.....	8192
	Other name: Soma®	
(f)	Chloral betaine.....	2460
(g)	Chloral hydrate.....	2465
(h)	Chlordiazepoxide.....	2744
(i)	Clobazam.....	2751
(j)	Clonazepam.....	2737
(k)	Clorazepate.....	2768
(l)	Clotiazepam.....	2752
(m)	Cloxazolam.....	2753
(n)	Delorazepam.....	2754
(o)	Diazepam.....	2765
(p)	Dichloralphenazone.....	2467
(q)	Estazolam.....	2756
(r)	Eszopiclone.....	N/A
(s)	Ethchlorvynol.....	2540
(t)	Ethinamate.....	2545
(u)	Ethyl Loflazepate.....	2758
(v)	Fludiazepam.....	2759
(w)	Flunitrazepam.....	2763
(x)	Flurazepam.....	2767
(y)	Fospropofol.....	2138
(z)	Halazepam.....	2762
(aa)	Haloxazolam.....	2771
(bb)	Ketazolam.....	2772
(cc)	Loprazolam.....	2773
(dd)	Lorazepam.....	2885
(ee)	Lormetazepam.....	2774
(ff)	Mebutamate.....	2800
(gg)	Medazepam.....	2836

(hh)	Meprobamate.....	2820
(ii)	Methohexital.....	2264
(jj)	Methylphenobarbital (mephobarbital).....	2250
(kk)	Midazolam.....	2884
(ll)	Nimetazepam.....	2837
(mm)	Nitrazepam.....	2834
(nn)	Nordiazepam.....	2838
(oo)	Oxazepam.....	2835
(pp)	Oxazolam.....	2839
(qq)	Paraldehyde.....	2585
(rr)	Petrichloral.....	2591
(ss)	Phenobarbital.....	2285
(tt)	Pinazepam.....	2883
(uu)	Prazepam.....	2764
(vv)	Quazepam.....	2881
(ww)	Temazepam.....	2925
(xx)	Tetrazepam.....	2886
(yy)	Tramadol.....	N/A
	Other names: Ultram® and Ultracet®	
(zz)	Triazolam.....	2887
(aaa)	Zaleplon.....	2781
(bbb)	Zolpidem.....	2783
(ccc)	Zopiclone.....	2784
(4)	Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, positional, or geometric), and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:	
(a)	Fenfluramine.....	1670
(b)	Dexfenfluramine.....	1670
(5)	Lorcaserin. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:	
(a)	Lorcaserin.....	1625

(6) — Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(a) — Cathine ((+) norpseudoephedrine).....	1230
(b) — Diethylpropion.....	1610
(c) — Fencamfamin.....	1760
(d) — Fenproporex.....	1575
(e) — Mazindol.....	1605
(f) — Mefenorex.....	1580
(g) — Modafinil.....	1680
(h) — Pemoline (including organometallic complexes and chelates thereof).....	1530
(i) — Phentermine.....	1640
(j) — Pipradol.....	1750
(k) — Sibutramine.....	1675
(l) — SPA ((-) 1 dimethylamino 1,2-diphenylethane).....	1635

(7) — Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

(a) — Pentazocine.....	9709
(b) — Butorphanol (including its optical isomers).....	9720

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.05 Controlled Substances in Schedule V.

(1) — Schedule V consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.

(2) — Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

- (a) — Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
- (b) — Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
- (c) — Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
- (d) — Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
- (e) — Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(f) — Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(3) — Stimulants. Unless specifically exempted or excluded, or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of the isomers:

———— (a) — Pyrovalerone..... 1485

(4) — Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

———— (a) — Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester]..... 2779

———— (b) — Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide]..... 2746

———— (c) — Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]..... 2782

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.06 Controlled Substances in Schedule VI.

(1) — Marijuana..... 7360

(2) — Tetrahydrocannabinols..... 7370

(3) — Unless specifically excepted or unless listed in another schedule, synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity. Examples include the following drugs or their compounds regardless of numerical designation of atomic positions covered:

———— (a) — 1 cis or trans tetrahydrocannabinol, and its optical isomers.

———— (b) — 6 cis or trans tetrahydrocannabinol, and its optical isomers.

———— (c) — 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.07 Controlled Substances in Schedule VII.

———— (1) — Butyl nitrite and any isomer of butyl nitrite

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.08 Non-narcotic Substances Excluded from Controlled Substances

(1) Non-narcotic substances listed in the most current edition of 21 C.F.R. 1308.22, are excluded from all schedules.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.09 Chemical Preparations Excluded from Controlled Substances

(1) Chemical preparations listed in the most current edition of 21 C.F.R. 1308.24, are excluded from all

~~schedules.~~

~~Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.~~

~~0940-06-01 .10 Veterinary Anabolic Steroid Implant Products Excluded from Controlled Substances~~

- ~~(1) Veterinary anabolic steroid implant products listed in the most current edition of 21 C.F.R. 1308.26, are excluded from all schedules.~~

~~Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.~~

~~0940-06-01 .11 Prescription Products Excluded from Controlled Substances~~

- ~~(1) Prescription products listed in the most current edition of 21 C.F.R. 1308.32, are excluded from all schedules.~~

~~Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.~~

~~0940-06-01 .12 Anabolic Steroid Products Excluded from Controlled Substances~~

- ~~(1) Anabolic steroid products listed in the most current edition of 21 C.F.R. 1308.34, are excluded from all schedules.~~

~~Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.~~

~~0940-06-01 .13 Certain Cannabis Plant Material, and products made therefrom, Excluded from Controlled Substances~~

- ~~(1) Certain cannabis plant material, and products made therefrom, that contain tetrahydrocannabinols listed in the most current edition of 21 C.F.R. 1308.35, are excluded from all schedules.~~

~~Authority: Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.~~

Repeals

~~Chapter 0940-06-01 Controlled Substances is repealed in its entirety.~~

~~Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.~~

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 Rule ID(s): _____
 File Date: _____
 Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Mental Health and Substance Abuse Services
Division:	Division of Substance Abuse Services
Contact Person:	R. Kurt Hippel, Director, Office of Legislation and Rules
Address:	500 Deaderick Street, 5 th Floor, Nashville, TN
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Revision Type (check all that apply):

- ____ Amendment
☒ New
☒ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0940-06-01	Controlled Substances
Rule Number	Rule Title
0940-06-01-.01	Controlled Substances in Schedule I
0940-06-01-.02	Controlled Substances in Schedule II
0940-06-01-.03	Controlled Substances in Schedule III
0940-06-01-.04	Controlled Substances in Schedule IV
0940-06-01-.05	Controlled Substances in Schedule V
0940-06-01-.06	Controlled Substances in Schedule VI
0940-06-01-.07	Controlled Substances in Schedule VII
0940-06-01-.08	Non-Narcotic Substances Excluded from Controlled Substances
0940-06-01-.09	Chemical preparations excluded from Controlled Substances
0940-06-01-.10	Veterinary anabolic steroid implant products excluded from Controlled Substances
0940-06-01-.11	Prescription products excluded from Controlled Substances
0940-06-01-.12	Anabolic steroid products excluded from Controlled Substances
0940-06-01-.13	Certain cannabis plant material, and products made therefrom, excluded from Controlled Substances

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

0940-06-01-.01 Controlled Substances in Schedule I.

- (1) Schedule I consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.
- (2) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, salts is possible within the specific chemical designation. For the purposes of subparagraph (hh) 3-Methylfentanyl, only, the term isomer includes the optical and geometric isomers.
 - (a) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidnyl]-N-phenyl-acetamide)..... 9815
 - (b) Acetylmethadol..... 9601
 - (c) Allylprodine..... 9602
 - (d) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol; levomethadyl acetate; or LAAM)..... 9603
 - (e) Alphameprodine..... 9604
 - (f) Alphamethadol..... 9605
 - (g) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido)piperidine)..... 9814
 - (h) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide) 9832
 - (i) Benzethidine..... 9606
 - (j) Betacetylmethadol..... 9607
 - (k) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidiny]-N-phenylpropanamide)..... 9830
 - (l) Beta-hydroxy-3-methylfentanyl 9831
Other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide
 - (m) Betameprodine..... 9608
 - (n) Betamethadol..... 9609
 - (o) Betaprodine..... 9611
 - (p) Clonitazene..... 9612
 - (q) Dextromoramide..... 9613
 - (r) Diampromide..... 9615
 - (s) Diethylthiambutene..... 9616

(t)	Difenoxin.....	9168
(u)	Dimenoxadol.....	9617
(v)	Dimepheptanol.....	9618
(w)	Dimethylthiambutene.....	9619
(x)	Dioxaphetyl butyrate.....	9621
(y)	Dipipanone.....	9622
(z)	Ethylmethylthiambutene.....	9623
(aa)	Etonitazene.....	9624
(bb)	Etoxidine.....	9625
(cc)	Furethidine.....	9626
(dd)	Hydroxypethidine.....	9627
(ee)	Ketobemidone.....	9628
(ff)	Levomoramide.....	9629
(gg)	Levophenacymorphan.....	9631
(hh)	3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide).....	9813
(ii)	3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).....	9833
(jj)	Morpheridine.....	9632
(kk)	MPPP (1-methyl-4-phenyl-4-propionoxypiperidine).....	9661
(ll)	Noracymethadol.....	9633
(mm)	Norlevorphanol.....	9634
(nn)	Normethadone.....	9635
(oo)	Norpipanone.....	9636
(pp)	Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide)	9812
(qq)	PEPAP (1-(2-phenylethyl)-4-phenyl-4-acetoxypiperidine).....	9663
(rr)	Phenadoxone.....	9637
(ss)	Phenampromide.....	9638
(tt)	Phenomorphane.....	9647
(uu)	Phenoperidine.....	9641
(vv)	Piritramide.....	9642

(ww)	Proheptazine.....	9643
(xx)	Properidine.....	9644
(yy)	Propiram.....	9649
(zz)	Racemoramide.....	9645
(aaa)	Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide).....	9835
(bbb)	Tilidine.....	9750
(ccc)	Trimeperidine.....	9646
(3)	Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:	
(a)	Acetorphine.....	9319
(b)	Acetyldihydrocodeine.....	9051
(c)	Benzylmorphine.....	9052
(d)	Codeine methylbromide.....	9070
(e)	Codeine-N-Oxide.....	9053
(f)	Cyprenorphine.....	9054
(g)	Desomorphine.....	9055
(h)	Dihydromorphine.....	9145
(i)	Drotebanol.....	9335
(j)	Etorphine (except hydrochloride salt).....	9056
(k)	Heroin.....	9200
(l)	Hydromorphinol.....	9301
(m)	Methyldesorphine.....	9302
(n)	Methyldihydromorphine.....	9304
(o)	Morphine methylbromide.....	9305
(p)	Morphine methylsulfonate.....	9306
(q)	Morphine-N-Oxide.....	9307
(r)	Myrophine.....	9308
(s)	Nicocodeine.....	9309
(t)	Nicomorphine.....	9312
(u)	Normorphine.....	9313

(v)	Pholcodine.....	9314
(w)	Thebacon.....	9315
(4)	Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers, is possible within the specified chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):	
(a)	Alpha-ethyltryptamine..... Other names: etryptamine; Monase; [alpha]-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; [alpha]-ET; and AET; ET; Trip	7249
(b)	Alpha-methyltryptamine..... Other name: AMT	7432
(c)	4-Bromo-2,5-dimethoxy-amphetamine..... Other names: 4-Bromo-2,5-dimethoxy-[alpha]-methylphenethylamine; 4-bromo-2,5-DMA	7391
(d)	4-Bromo-2,5-dimethoxyphenethylamine..... Other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus	7392
(e)	2-(4-Bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine..... Other names: 25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36	7536
(f)	Bufotenine..... Other names: 3-([beta]-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine	7433
(g)	2-(4-Chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine..... Other names: 25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82	7537
(h)	Diethyltryptamine..... Other names: N,N-Diethyltryptamine; DET	7434
(i)	2,5-Dimethoxyamphetamine..... Other names: 2,5-Dimethoxy-[alpha]-methylphenethylamine; 2,5-DMA	7396
(j)	2, 5-Dimethoxy-4-ethylamphet-amine..... Other name: DOET	7399
(k)	2, 5 Dimethoxy-4-(n)-propylthiophenethylamine..... Other name: 2C-T-7	7348
(l)	Dimethyltryptamine..... Other name: DMT	7435
(m)	Ethylamine analog of phencyclidine..... Other names: N-Ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE	7455
(n)	Ibogaine..... Other names: 7-Ethyl-6,6[beta],7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2]azepino[5,4-b]indole; Tabenanthe iboga.	7260
(o)	2-(4-Iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine.....	7538

Other names: 25I-NBOMe; 2C-I-NBOMe; 25I; Cimbi-5

(p)	Lysergic acid diethylamide.....	7315
	Other name: LSD	
(q)	Mescaline.....	7381
	Other name: Constituent of "Peyote" cacti	
(r)	4-Methoxyamphetamine.....	7411
	Other names: 4-methoxy-[alpha]-methylphenethylamine; paramethoxyamphetamine; PMA	
(s)	5-Methoxy-3,4-methylenedioxy-amphetamine.....	7401
(t)	5-Methoxy-N,N-diisopropyltryptamine.....	7439
	Other name: 5-MeO-DIPT	
(u)	5-methoxy-N,N-dimethyltryptamine	7431
	Other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT	
(v)	4-Methyl-2, 5-dimethoxy-amphetamine.....	7395
	Other names: 4-methyl-2,5-dimethoxy-[alpha]-methylphenethylamine; DOM; STP	
(w)	3,4-Methylenedioxy amphetamine.....	7400
(x)	3,4-Methylenedioxymethamphetamine.....	7405
	Other name: MDMA	
(y)	3,4-Methylenedioxy-N-ethylamphetamine.....	7404
	Other names: N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine; N-ethyl MDA; MDE; MDEA	
(z)	3,4-Methylenedioxy-N-methylcathinone.....	7540
	Other names: Methylone	
(aa)	N-Ethyl-3-piperidyl benzilate.....	7482
(bb)	N-Hydroxy-3,4-methylenedioxyamphetamine.....	7402
	Other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine; N-hydroxy MDA	
(cc)	N-methyl-3-piperidyl benzilate.....	7484
(dd)	Parahexyl.....	7374
	Other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b, d]pyran; Synhexyl	
(ee)	Peyote.....	7415
	Meaning all parts of the plant presently classified botanically as <i>Lophophora williamsii</i> Lamaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant its seeds or extracts. (Interprets 21 USC 812 (c), Schedule 1 (c) (12)(o))	
(ff)	Psilocybin (constituent of magic mushrooms).....	7437
(gg)	Psilocyn (constituent of magic mushrooms)	7438
(hh)	Pyrrolidine analog of phencyclidine (1-(1-phenylcyclohexyl)-pyrrolidine).....	7458
	Other names: PCPy; PHP	

(ii)	1-[1-(2-Thienyl)cyclohexyl]pyrrolidine.....	7473
	Other names: TCPy	
(jj)	4- Methylmethcathinone	1248
	Other names: mephedrone; methpadrone; 4-MMC	
(kk)	3,4-Methylenedioxypropiovalerone.....	7535
	Other names: MDPV	
(ll)	2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E).....	7509
(mm)	2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D).....	7508
(nn)	2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C).....	7519
(oo)	2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I).....	7518
(pp)	2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2).....	7385
(qq)	2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)	7532
(rr)	2-(2,5-Dimethoxyphenyl)ethanamine (2C-H).....	7517
(ss)	2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N)	7521
(tt)	2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P)	7524
(uu)	Thiophene analog of phencyclidine.....	7470
	Other names: 1-[1-(2-thienyl)cyclohexyl]-piperidine; 2-thienylanalog of phencyclidine; TCP; TCP	
(vv)	3,4,5-Trimethoxy amphetamine.....	7390
(ww)	(1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers.....	7144
	(Other names: UR-144; 1-pentyl-3-(2,2,3,3-tetramethylcyclopropyl)indole)	
(xx)	[1-(5-Fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers.....	7011
	(Other names: 5-fluoro-UR-144; 5-F-UR-144; XLR11; 1-(5-fluoro-pentyl)-3-(2,2,3,3-tetramethylcyclopropyl)indole)	
(yy)	N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers.....	7048
	(Other names: APINACA; AKB48)	
(5)	Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specified chemical designation:	
(b)	Gamma-hydroxybutyric acid.....	2010
	Other names: GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate	
(b)	Mecloqualone.....	2572
(c)	Methaqualone.....	2565

- (6) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
- (a) Alpha-pyrrolidinobutiophenone, its optical, positional, and geometric isomers, salts and salts of isomers 7546
Other names: [alpha]-PBP; 1-phenyl-2-(pyrrolidin-1-yl)butan-1-one
 - (b) Alpha-pyrrolidinopentiophenone, its optical, positional, and geometric isomers, salts and salts of isomers 7545
Other names: [alpha]-PVP; [alpha]-pyrrolidinovalerophenone; 1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one
 - (c) Aminorex..... 1585
Other names: aminoxophen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazamine
 - (d) Butylone, its optical, positional, and geometric isomers, salts and salts of isomers..... 7541
Other names: bk-MBDB; 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one
 - (e) Cathinone..... 1235
Other names: 2-amino-1-phenyl-1-propanone; alpha-aminopropiophenone; 2-aminopropiophenone; norphedrone; constituent of *catha edulis* or "Khat" plant
 - (f) 3-Fluoro-N-methylcathinone, its optical, positional, and geometric isomers, salts and salts of isomers 1233
Other names: 3-FMC; 1-(3-fluorophenyl)-2-(methylamino)propan-1-one
 - (g) 4-Fluoro-N-methylcathinone, its optical, positional, and geometric isomers, salts and salts of isomers 1238
Other names: 4-FMC; flephedrone; 1-(4-fluorophenyl)-2-(methylamino)propan-1-one
 - (h) Fenethylline..... 1503
 - (i) Methcathinone..... 1237
Other names: 2-(methylamino)-propiofenone; alpha-(methylamino) propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR1432); its salts, optical isomers and salts of optical isomers
 - (j) (+/-) *cis*-4-Methylaminorex (*cis* isomer)..... 1590
Other name: (+/-)*cis*-4,5 dihydro-4-methyl-5-phenyl-2-oxazamine
 - (k) 4-Methyl-N-ethylcathinone, its optical, positional, and geometric isomers, salts and salts of isomers 1249
Other names: 4-MEC; 2-(ethylamino)-1-(4-methylphenyl)propan-1-one
 - (l) 4-Methyl-alpha-pyrrolidinopropiophenone, its optical, positional, and geometric isomers, salts and salts of isomers 7498
Other names: 4-MePPP; MePPP; 4-methyl-[alpha]-pyrrolidinopropiophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)-propan-1-one
 - (m) Naphyrone, its optical, positional, and geometric isomers, salts and salts of isomers..... 1258
Other names: naphthylpyrovalerone; 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one
 - (n) N-Benzylpiperazine..... 7493
Other names: BZP; 1-benzylpiperazine

(o)	N-Ethylamphetamine.....	1475
(p)	N,N-Dimethylamphetamine..... Other names: N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine	1480
(q)	Pentedrone, its optical, positional, and geometric isomers, salts and salts of isomers..... Other names: [alpha]-methyaminovalerophenone; 2-(methylamino)-1-phenylpentan-1-one	1246
(r)	Pentylone, its optical, positional, and geometric isomers, salts and salts of isomers..... Other names: bk-MBDP; 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one	7542
(7)	Cannabimimetic agents. Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:	
(a)	5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497)	7297
(b)	5-(1,1-Dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog)	7298
(c)	1-Pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678)	7118
(d)	1-Butyl-3-(1-naphthoyl)indole (JWH-073)	7173
(e)	1-Hexyl-3-(1-naphthoyl)indole (JWH-019)	7019
(f)	1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200)	7200
(g)	1-Pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250)	6250
(h)	1-Pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081)	7081
(i)	1-Pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122)	7122
(j)	1-Pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398)	7398
(k)	1-(5-Fluoropentyl)-3-(1-naphthoyl)indole (AM2201).....	7201
(l)	1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole (AM694).....	7694
(m)	1-Pentyl-3-[(4-methoxy)-benzoyl]indole (SR-19 and RCS-4)	7104
(n)	1-Cyclohexylethyl-3-(2-methoxyphenylacetyl)indole 7008 (SR-18 and RCS-8)	7008
(o)	1-Pentyl-3-(2-chlorophenylacetyl)indole (JWH-203)	7203
(p)	N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers..... Other names: AB-FUBINACA	7012
(q)	N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers	7035
	Other names: ADB-PINACA	

- (r) Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers7225
Other names: 5-fluoro-PB-22; 5F-PB-22
- (s) Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers 7222
Other names: PB-22; QUPIC

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.02 Controlled Substances in Schedule II.

- (1) Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.
- (2) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrophan, thebaine-derived butorphanol, nalmefene, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:
- | | | |
|-----|------------------------------|------|
| 1. | Codeine..... | 9050 |
| 2. | Dihydroetorphine..... | 9334 |
| 3. | Ethylmorphine..... | 9190 |
| 4. | Etorphine hydrochloride..... | 9059 |
| 5. | Granulated opium..... | 9640 |
| 6. | Hydrocodone..... | 9193 |
| 7. | Hydromorphone..... | 9150 |
| 8. | Metopon..... | 9260 |
| 9. | Morphine..... | 9300 |
| 10. | Opium extracts..... | 9610 |
| 11. | Opium fluid..... | 9620 |
| 12. | Oripavine..... | 9330 |
| 13. | Oxycodone..... | 9143 |
| 14. | Oxymorphone..... | 9652 |
| 15. | Powdered opium..... | 9639 |
| 16. | Raw opium..... | 9600 |
| 17. | Thebaine..... | 9333 |

18.	Tincture of opium.....	9630
(b)	Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (2)(a) of this rule, except that these substances shall not include the isoquinoline alkaloids of opium.	
(c)	Opium poppy and poppy straw.	
(d)	Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves (including cocaine (9041) and ecgonine (9180) and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.	
(e)	Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy).....	9670
(3)	Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:	
(a)	Alfentanil.....	9737
(b)	Alphaprodine.....	9010
(c)	Anileridine.....	9020
(d)	Bezitramide.....	9800
(e)	Carfentanil.....	9743
(f)	Dextropropoxyphene (bulk, non dosage forms).....	9273
(g)	Dihydrocodeine.....	9120
(h)	Diphenoxylate.....	9170
(i)	Fentanyl.....	9801
(j)	Isomethadone.....	9226
(k)	Levo-alphaacetylmethadol..... Other names: levo-alpha-acetylmethadol; levomethadyl acetate; LAAM	9648
(l)	Levomethorphan.....	9210
(m)	Levorphanol.....	9220
(n)	Metazocine.....	9240
(o)	Methadone.....	9250
(p)	Methadone-Intermediate; 4-cyano-2-dimethylamino-4,4-diphenyl butane.....	9254
(q)	Moramide-Intermediate; 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid.....	9802

(r)	Pethidine (meperidine).....	9230
(s)	Pethidine-Intermediate-A; 4-cyano-1-methyl-4-phenylpiperidine.....	9232
(t)	Pethidine-Intermediate-B; ethyl-4-phenylpiperidine-4-carboxylate.....	9233
(u)	Pethidine-Intermediate-C; 1-methyl-4-phenylpiperidine-4-carboxylic acid.....	9234
(v)	Phenazocine.....	9715
(w)	Piminodine.....	9730
(x)	Racemethorphan.....	9732
(y)	Racemorphan.....	9733
(z)	Remifentanil.....	9739
(aa)	Sufentanil.....	9740
(bb)	Tapentadol.....	9780
(4)	Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:	
(a)	Amphetamine, its salts, optical isomers, and salts of its optical isomers.....	1100
(b)	Methamphetamine, its salts, isomers, and salts of its isomers.....	1105
(c)	Phenmetrazine and its salts.....	1631
(d)	Methylphenidate.....	1724
(e)	Lisdexamfetamine, its salts, isomers, and salts of its isomers.....	1205
(5)	Depressants. Unless specifically excepted or unless listed in another schedule any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:	
(a)	Amobarbital.....	2125
(b)	Glutethimide.....	2550
(c)	Pentobarbital.....	2270
(d)	Phencyclidine.....	7471
(e)	Secobarbital.....	2315
(6)	Hallucinogenic substances.	
(a)	Nabilone.....	7379
	Other names: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one.	
(7)	Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following	

substances:

(a) Immediate precursor to amphetamine and methamphetamine:

1. Phenylacetone.....8501

Other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;

(b) Immediate precursors to phencyclidine (PCP):

1. 1-phenylcyclohexylamine..... 7460

2. 1-piperidinocyclohexanecarbonitrile(PCC)..... 8603

(c) Immediate precursor to fentanyl:

1. 4-anilino-N-phenethyl-4-piperidine (ANPP)..... 8333

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.03 Controlled Substances in Schedule III.

(1) Schedule III consists of the drugs and other substances by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.

(2) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under 21 C.F.R. 1308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances..... 1405

(b) Benzphetamine..... 1228

(c) Clorpheniramine..... 1645

(d) Clortermine..... 1647

(e) Phendimetrazine..... 1615

(3) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect in the central nervous system:

(a) Any compound, mixture, or preparation containing:

1. Amobarbital..... 2126

2. Secobarbital.....2316

3. Pentobarbital2271

Or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(b)	Any suppository dosage form containing:	
1.	Amobarbital.....	2126
2.	Secobarbital.....	2316
3.	Pentobarbital.....	2271
	Or any salt of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.	
(c)	Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof. Examples include the following drugs:.....	2100
1.	Aprobarbital.....	2100
2.	Butabarbital (secbutabarbital).....	2100
3.	Butalbital.....	2100
4.	Butobarbital (butethal).....	2100
5.	Talbutal.....	2100
6.	Thiamylal.....	2100
7.	Thiopental.....	2100
8.	Vinbarbital	2100
(d)	Chlorhexadol.....	2510
(e)	Embutramide.....	2020
(f)	Gamma hydroxybutyric acid preparations. Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under § 505 of the federal Food, Drug, and Cosmetic Act, codified in 21 U.S.C. §_301, et seq.....	2012
(g)	Ketamine, its salts, isomers, and salts of isomers	7285
	Other name: (±)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone	
(h)	Lysergic acid.....	7300
(i)	Lysergic acid amide.....	7310
(j)	Methypylon.....	2575
(k)	Perampanel, and its salts, isomers, and salts of isomers	2261
(l)	Sulfondiethylmethane.....	2600
(m)	Sulfonethylmethane.....	2605
(n)	Sulfonmethane.....	2610
(o)	Tiletamine and zolazepam or any salt of tiletamine or zolazepam.....	7295

1. Other name for a tiletamine-zolazepam combination product: Telazol®;
 2. Other name for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone.
 3. Other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo[3,4-e],[1,4]-diazepin-7(1H)-one; flupyrzapon
- (4) Nalorphine..... 9400
- (5) Narcotic Drugs.
- (a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
1. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium..... 9803
 2. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts..... 9804
 3. Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active non-narcotic ingredients in recognized therapeutic amount..... 9807
 4. Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active non-narcotic ingredients in recognized therapeutic amounts..... 9808
 5. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts..... 9809
 6. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, non-narcotic ingredients in recognized therapeutic amounts..... 9810
- (b) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts:
1. Buprenorphine..... 9064
- (6) Anabolic steroids. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters and ethers:
- (a) Anabolic steroids..... 4000
1. 3[alpha],17[beta]-dihydroxy-5a-androstane
 2. 5[alpha]-androstane-3,17-dione
 3. 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy-5a-androstane
 4. 17[alpha]-methyl-3[beta],17[beta]-dihydroxy-5a-androstane

5. 17[alpha]-methyl-3[beta], 17[beta]-dihydroxyandrost-4-ene
6. 17[alpha]-methyl-[delta]1-dihydrotestosterone (17[beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one (a.k.a. '17-[alpha]-methyl-1-testosterone'))
7. 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one)
8. 1-Androstenediol (3[alpha], 17[beta]-dihydroxy-5[alpha]-androst-1-ene)
9. 1-Androstenediol (3[beta], 17[beta]-dihydroxy-5[alpha]-androst-1-ene)
10. 4-Androstenediol (3[beta], 17[beta]-dihydroxy-androst-4-ene)
11. 5-Androstenediol (3[beta], 17[beta]-dihydroxy-androst-5-ene)
12. 1-Androstenedione (5[alpha]-androst-1-en-3, 17-dione)
13. 4-Androstenedione (androst-4-en-3, 17-dione)
14. 5-Androstenedione (androst-5-en-3, 17-dione)
15. 3[Beta], 17-dihydroxy-5a-androstane
16. 13[Beta]-ethyl-17[beta]-hydroxygon-4-en-3-one
17. Bolasterone (7[alpha], 17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one)
18. Boldenone (17[beta]-hydroxyandrost-1,4-diene-3-one)
19. Boldione (androsta-1,4-diene-3, 17-dione)
20. Calusterone (7[beta], 17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one)
21. Chlorotestosterone
22. Clostebol (4-chloro-17[beta]-hydroxyandrost-4-en-3-one)
23. Dehydrochloromethyltestosterone (4-chloro-17[beta]-hydroxy-17[alpha]-methylandrost-1,4-dien-3-one)
24. [Delta]1-dihydrotestosterone (a.k.a. '1-testosterone') (17[Beta]-hydroxy-5[alpha]-androst-1-en-3-one)
25. Desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst-2-en-17[Beta]-ol)
Other name: madol
26. 4-Dihydrotestosterone (17[beta]-hydroxyandrostan-3-one)
27. Drostanolone (17[beta]-hydroxy-2[alpha]-methyl-5[alpha]-androstan-3-one)
28. Ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene)
29. Fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta], 17[beta]-dihydroxyandrost-4-en-3-one)
30. Formebolone (2-formyl-17[alpha]-methyl-11[alpha], 17[beta]-dihydroxyandrost-1,4-dien-3-one)

31. Furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]-furazan)
32. 4-Hydroxy-19-nortestosterone (4,17[beta]-dihydroxyestr-4-en-3-one)
33. 4-Hydroxytestosterone (4,17[beta]-dihydroxyandrost-4-en-3-one)
34. Mestanolone (17[alpha]-methyl-17[beta]-hydroxy-5[alpha]-androst-3-one)
35. Mesterolone (1[alpha]-methyl-17[beta]-hydroxy-5[alpha]-androst-3-one)
36. Methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-diene-3-one)
37. Methandranone
38. Methandriol (17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-5-ene)
39. Methandrostenolone
40. Methasterone (2[alpha],17[alpha]-dimethyl-5[alpha]-androst-17[beta]-ol-3-one)
41. Methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one)
42. Methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9(10)-dien-3-one)
43. Methyltestosterone (17[alpha]-methyl-17[beta]-hydroxyandrost-4-en-3-one)
44. Methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9,11-trien-3-one)
45. Mibolerone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyestr-4-en-3-one)
46. Nandrolone (17[beta]-hydroxyestr-4-en-3-one)
47. 19-Nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione)
48. 19-Nor-4-androstenediol (3[alpha],17[beta]-dihydroxyestr-4-ene)
49. 19-Nor-4-androstenediol (3[beta],17[beta]-dihydroxyestr-4-ene)
50. 19-Nor-5-androstenediol (3[alpha],17[beta]-dihydroxyestr-5-ene)
51. 19-Nor-5-androstenediol (3[beta],17[beta]-dihydroxyestr-5-ene)
52. 19-Nor-4-androstenedione (estr-4-en-3,17-dione)
53. 19-Nor-5-androstenedione (estr-5-en-3,17-dione)
54. Norbolethone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one)
55. Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one)
56. Norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3-one)
57. Normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one)
58. Oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-5[alpha]-androst-3-one)
59. Oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en-3-one)
60. Oxymetholone (17[alpha]-methyl-2-hydroxymethylene-17[beta]-hydroxy-

[5[alpha]]-androstan-3-one)

61. Prostanazol (17[beta]-hydroxy-5[alpha]-androstan[3,2-c]pyrazole)
62. Stanolone
63. Stanazolol (17[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]-androst-2-eno[3,2-c]-pyrazole)
64. Stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-androst-1-en-3-one)
65. Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1, 4-dien-17-oic acid lactone)
66. Testosterone (17[beta]-hydroxyandrost-4-en-3-one)
67. Tetrahydrogestrinone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4, 9,11-trien-3-one)
68. Trenbolone (17[beta]-hydroxyestr-4,9,11-trien-3-one)

- (b) Any salt, ester, or isomer of a drug or substance described or listed in subparagraph (a), if such salt, ester, or isomer promotes muscle growth.
- (c) Anabolic steroids intended for administration to cattle or other non-human species are exempt from this rule unless such steroids are prescribed, dispensed, or distributed for human use.
- (d) Anabolic steroids with a combination of estrogens intended for administration to hormone deficient women are exempt from this rule unless such steroids are prescribed, dispensed, or distributed to women who are not hormone deficient.

(7) Hallucinogenic Substances

- (a) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved drug product..... 7369
Other names: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.04 Controlled Substances in Schedule IV.

- (1) Schedule IV consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.
- (2) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
 - (a) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.....9167
 - (b) Dextropropoxyphene dosage forms (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane)..... 9278
- (3) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance,

including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a)	Alfaxalone	2731
(b)	Alprazolam.....	2882
(c)	Barbital.....	2145
(d)	Bromazepam.....	2748
(e)	Camazepam.....	2749
(f)	Carisoprodol..... Other name: Soma®	8192
(g)	Chloral betaine.....	2460
(h)	Chloral hydrate.....	2465
(i)	Chlordiazepoxide.....	2744
(j)	Clobazam.....	2751
(k)	Clonazepam.....	2737
(l)	Clorazepate.....	2768
(m)	Clotiazepam.....	2752
(n)	Cloxazolam.....	2753
(o)	Delorazepam.....	2754
(p)	Diazepam.....	2765
(q)	Dichloralphenazone.....	2467
(r)	Estazolam.....	2756
(s)	Eszopiclone.....	N/A
(t)	Ethchlorvynol.....	2540
(u)	Ethinamate.....	2545
(v)	Ethyl Loflazepate.....	2758
(w)	Fludiazepam.....	2759
(x)	Flunitrazepam.....	2763
(y)	Flurazepam.....	2767
(z)	Fospropofol.....	2138
(aa)	Halazepam.....	2762
(bb)	Haloxazolam.....	2771

(cc)	Ketazolam.....	2772
(dd)	Loprazolam.....	2773
(ee)	Lorazepam.....	2885
(ff)	Lormetazepam.....	2774
(gg)	Mebutamate.....	2800
(hh)	Medazepam.....	2836
(ii)	Meprobamate.....	2820
(jj)	Methohexital.....	2264
(kk)	Methylphenobarbital (mephobarbital).....	2250
(ll)	Midazolam.....	2884
(mm)	Nimetazepam.....	2837
(nn)	Nitrazepam.....	2834
(oo)	Nordiazepam.....	2838
(pp)	Oxazepam.....	2835
(qq)	Oxazolam.....	2839
(rr)	Paraldehyde.....	2585
(ss)	Petrichoral.....	2591
(tt)	Phenobarbital.....	2285
(uu)	Pinazepam.....	2883
(vv)	Prazepam.....	2764
(ww)	Quazepam.....	2881
(xx)	Suvorexant.....	2223
(yy)	Temazepam.....	2925
(zz)	Tetrazepam.....	2886
(aaa)	Tramadol..... Other names: Ultram® and Ultracet®	9752
(bbb)	Triazolam.....	2887
(ccc)	Zaleplon.....	2781
(ddd)	Zolpidem.....	2783
(eee)	Zopiclone.....	2784

(4) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the

following substances including its salts, isomers (whether optical, positional, or geometric), and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

- (a) Fenfluramine..... 1670
- (b) Dexfenfluramine.....1670
- (5) Lorcaserin. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:
 - (a) Lorcaserin..... 1625
- (6) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:
 - (a) Cathine ((+)-norpseudoephedrine).....1230
 - (b) Diethylpropion..... 1610
 - (c) Fencamfamin..... 1760
 - (d) Fenproporex..... 1575
 - (e) Mazindol..... 1605
 - (f) Mefenorex..... 1580
 - (g) Modafinil..... 1680
 - (h) Pemoline (including organometallic complexes and chelates thereof)..... 1530
 - (i) Phentermine.....1640
 - (j) Pipradol..... 1750
 - (k) Sibutramine..... 1675
 - (l) SPA ((-)-1-dimethylamino-1,2-diphenylethane)..... 1635
- (7) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:
 - (a) Pentazocine..... 9709
 - (b) Butorphanol (including its optical isomers)..... 9720

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.05 Controlled Substances in Schedule V.

- (1) Schedule V consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this rule. Each drug or substance bears the federal controlled substance code number assigned to it by the Drug Enforcement Administration.
- (2) Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or

preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

- (a) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
 - (b) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
 - (c) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
 - (d) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
 - (e) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
 - (f) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
- (3) Stimulants. Unless specifically exempted or excluded, or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of the isomers:
- (a) Pyrovalerone..... 1485
- (4) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances have a depressant effect on the central nervous system, including its salts:
- (a) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester]..... 2779
 - (b) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide]..... 2746
 - (c) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid]..... 2782

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.06 Controlled Substances in Schedule VI.

- (1) Marijuana..... 7360
- (2) Tetrahydrocannabinols..... 7370
- (3) Unless specifically excepted or unless listed in another schedule, synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity. Examples include the following drugs or their compounds regardless of numerical designation of atomic positions covered:
 - (a) _____ 1 cis or trans tetrahydrocannabinol, and its optical isomers.
 - (b) _____ 6 cis or trans tetrahydrocannabinol, and its optical isomers.
 - (c) _____ 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.07 Controlled Substances in Schedule VII.

- (1) Butyl nitrite and any isomer of butyl nitrite

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.08 Non-narcotic Substances Excluded from Controlled Substances

- (2) Non-narcotic substances listed in the most current edition of 21 C.F.R. 1308.22, are excluded from all schedules.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.09 Chemical preparations excluded from Controlled Substances

- (2) Chemical preparations listed in the most current edition of 21 C.F.R. 1308.24, are excluded from all schedules.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.10 Veterinary anabolic steroid implant products excluded from Controlled Substances

- (2) Veterinary anabolic steroid implant products listed in the most current edition of 21 C.F.R. 1308.26, are excluded from all schedules.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.11 Prescription products excluded from Controlled Substances

- (2) Prescription products listed in the most current edition of 21 C.F.R. 1308.32, are excluded from all schedules.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.12 Anabolic steroid products excluded from Controlled Substances

- (2) Anabolic steroid products listed in the most current edition of 21 C.F.R. 1308.34, are excluded from all schedules.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

0940-06-01-.13 Certain cannabis plant material, and products made therefrom, excluded from Controlled Substances

- (2) Certain cannabis plant material, and products made therefrom, that contain tetrahydrocannabinols listed in the most current edition of 21 C.F.R. 1308.35, are excluded from all schedules.

Authority: Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

Repeals

Chapter 0940-06-01 Controlled Substances is repealed in its entirety.

Authority: T.C.A. §§ 4-4-103, 33-1-302, 33-1-303, 33-1-305, 33-1-309, and 39-17-403.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Mental Health and Substance Abuse Services on 12/17/14, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/21/2014

Rulemaking Hearing(s) Conducted on: (add more dates). 11/17/2014



Date: Dec 15 2014

Signature: [Signature]

Name of Officer: E. Douglas Varney

Title of Officer: Commissioner, Tennessee Department of Mental Health and Substance Abuse Services

Subscribed and sworn to before me on: Dec. 15, 2014

Notary Public Signature: Sue B. Hunt

My commission expires on: May 8, 2017

Date: 17 Dec 14

Signature: [Signature]

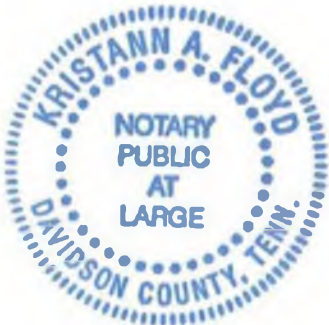
Name of Officer: John Dreyzehner, MD, MPH

Title of Officer: Commissioner, Tennessee Department of Health

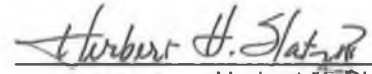
Subscribed and sworn to before me on: 12/12/14

Notary Public Signature: Kristann A. Floyd

My commission expires on: 3/22/2016



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.



Herbert H. Slatery III
Attorney General and Reporter

2/20/2015

Date

Department of State Use Only

Filed with the Department of State on:

2/24/15

Effective on:

5/25/15



Tre Hargett
Secretary of State

SECRETARY OF STATE
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2015 FEB 24 PM 2:46

G.O.C. STAFF RULE ABSTRACT

<u>DEPARTMENT:</u>	Commerce and Insurance
<u>DIVISION:</u>	Insurance
<u>SUBJECT:</u>	Navigator and Certified Application Counselor Registration Requirements
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Sections 56-2-301 and 56-6-1304, Patient Protection and Affordable Care Act, Public Law 111-148 as amended by Public Law 111-152
<u>EFFECTIVE DATES:</u>	May 21, 2015 through June 30, 2016
<u>FISCAL IMPACT:</u>	None
<u>STAFF RULE ABSTRACT:</u>	This rule chapter creates a registration and continuing education program for navigators and certified application counselors, as well as penalties for violations of the rules.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment 1

0780-01-55-.9

It was commented by two separate commenters that hospitals should be subject to the registration for navigators and certified application counselors.

Agency Response to Comment 1

2014 Public Acts, Chapter 660 became effective on March 24, 2014. This public chapter amends T.C.A. § 56-6-1301(3) to remove from the definition of navigator any hospital licensed pursuant to Title 68 or Title 33 of the Tennessee Code Annotated. Hospitals are no longer subject to the registration requirements of this rule.

Comment 2

0780-01-55-. 06

It was commented that the prohibitions on navigators and certified application counselors from discussing the benefits, terms, and features of a particular health plan over any other health plans and offering advice about which health plan is better or worse or suitable for a particular individual or employer, or recommending or endorsing a particular health plan or advising consumers about which health plan to choose were preventing organizations that arrange for physicians to volunteer their services for the poor from explaining to potential marketplace enrollees whether their specialty care physicians and medications were covered by a specific plan.

Agency Response to Comment 2

The purposes of these prohibitions are to keep navigators and certified application counselors from recommending, endorsing, or choosing a plan for someone. It is the Department's position that recommending, endorsing or choosing a plan for someone amounts to soliciting insurance and would require an insurance producer license. Pursuant to T.C.A. § 56-6-103, a person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with Tennessee Code Annotated Title 56, Chapter 6, Part 1. Under T.C.A. § 56-6-102(17), "solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company. In order to clarify the intent of these rules, the Department has deleted rule 0780-01 -55-.06(1)(b) and (c) but leaves rule 0780-01 -55-.06(1)(a) intact. Rule 0780-01-55-06(1)(a) already prohibits a navigator from selling, soliciting or negotiating insurance. This is to clarify that a navigator or certified application may discuss the substantive benefits, terms, and features of a particular health plan over any other health plans. Further, the federal navigator rule, 45 CFR § 155.210(c)(1)(iii)(C), and certified application counselor rule, 45 CFR § 155.225(d)(8)(iii), now clarify that the Federal Government considers any requirements that prevent navigators and certified application counselors from providing advice regarding substantive benefits or comparative benefits of different health plans would prevent the application of the provisions of Title I of the Affordable Care Act.

Comment 3

0780-01-55

It was commented by two separate commenters that the proposed rule in the notice of rulemaking hearing did not need any changes.

Agency Response to Comment 3

While the Department appreciated the support expressed in this comment, certain changes have been made to this rule in order to address other comments and to ensure this rule complies with applicable federal laws and regulations.

Comment 4

0780-01-55

It was commented by two separate commenters that the Department was being sued in both federal and state court over the emergency navigator emergency rules and it was asked whether these rulemaking hearing rules would comply with any decisions in those cases.

Agency Response to Comment 4

This rule is drafted to comply with the agreed orders entered in both the state and federal court actions. Further, the Department has posted frequently asked questions (FAQ3 and FAQ4) that explain the agreed orders in both cases and how those agreed orders impact the emergency navigator rule issued by the Department and the permanent navigator rule the Department is promulgating.

Comment 5

0780-01-55-.05

It was commented that the twelve hours of continued education that certified application counselors must get every year was approximately two and half times the training that the federal government requires for certified application counselors.

Agency Response to Comment 5

Because of the complexity of the federal health care law, and because of the number of qualified health plans sold on the federal marketplace for Tennessee, the Department believes that certified application counselors and navigators need a minimum of twelve hours of continuing education every year. Federal regulations are continuously evolving and we want to ensure that certified application counselors and navigators have a satisfactory understanding of the marketplace. Further, the Department wants certified application counselors to have an understanding of the Tennessee market. There were over seventy different qualified health plans offered by four different companies in certain parts of Tennessee for the 2014 open enrollment period. We believe that twelve hours of continuing education is the minimum amount of time in which a certified application counselor or a navigator can receive enough education to understand the changing federal regulations and the Tennessee insurance market.

Comment 6

0780-01-55-.05

It was commented that the federal certification and recertification training that certified application counselors and navigators receive should count toward the twelve hours of continuing education required in rule 0780-01-55-05.

Agency Response to Comment 6

The Department has amended rule 0780-01-55-.05 in response to this comment. Rule 0780-01-55-05 specifies a framework for continuing education for certified application counselors and navigators. Under this rule, certified application counselors and navigators can count up to five (5) hours of federal certification and recertification training as counting toward the twelve hour continuing education requirement. Furthermore, for individuals registered as navigators and certified application counselors under the emergency Chapter 0780-01-55, that was effective from September 18, 2013 to March 17, 2014, proof of satisfactory completion of federal training requirements shall meet the continuing education requirements for their first registration renewal only, provided such proof is filed with the Department on a form prescribed by the Commissioner

Comment 7

0780-01-55-05

It was commented that training provided by certified application counselor organizations and navigator organizations to their certified application counselors and navigators should count toward the twelve hours of continuing education required in rule 0780-01-55-.05.

Agency Response to Comment 7

The department has amended rule 0780-01-55-05 in response to this comment. Rule 0780-01-55-.05 specifies a framework for continuing education for certified application counselors and navigators. Under this rule, certified application counselor organizations and entities registered as navigators would be responsible for providing continuing education to the individual certified application counselors and navigators affiliated with the organizations and entities.

Comment 8

0780-01 -55-.05

It was commented that certified application counselors and navigators should be required to complete the amount of training that Federally Qualified Health Centers have funding for.

Agency Response to Comment 8

Because of the complexity of the federal health care law, and because of the number of qualified health plans sold on the federal marketplace for Tennessee, the Department believes that certified application counselors and navigators need a minimum of twelve hours of continuing education every year. Federal regulations are continuously evolving and we want to ensure that certified application counselors and navigators have a satisfactory understanding of the marketplace. Further, the Department wants certified application counselors to have an understanding of the Tennessee market. There were over seventy different qualified health plans offered by four different companies in certain parts of Tennessee for the 2014 open enrollment period. We believe that twelve hours of continuing education is the minimum amount of time in which a certified application counselor or a navigator can receive enough education to understand the changing federal regulations and the Tennessee insurance market.

However, the Department has amended rule 0780-01-55- 05 in response to this comment. Rule 0780-01-55-.05 specifies a framework for continuing education for certified application counselors and navigators. Under this rule, certified application counselor organizations and entities registered as navigators would be responsible for providing continuing education to the individual certified application counselors and navigators affiliated with the organizations and entities.

Comment 9

0780-01-55-01

It was commented that in Tennessee, navigators and certified application counselors had to complete multiple steps in order to be cleared to help others, but "Assisters" in the community are advertising their ability to help with health insurance without any requirements. Large local organizations whose assisters have not even completed the certified application counselor training, let alone been certified, are hosting call centers. It was commented that assisters receive some kind of training or operate under the guidance of someone who is trained (say, for example, a sponsoring Navigator Grantee/Sub-Grantee or federally qualified health center certified application counselor organization). It was further commented that volunteer assisters should only be allowed to provide Center for Medicare Services or our State's approved Department of Health information, specifically for the TennCare and CHIP programs, and assist at enrollment events as supportive staff. It was commented that providing fact sheets and referrals to navigators and certified application counselors seems to be appropriate behavior for assisters, but not providing enrollment assistance. Actual enrollment events should be required to have navigators and certified application counselors conducting the enrollments.

Agency Response to Comment 9

Pursuant to guidance from the federal government, individuals and entities that are not registered with the federal government as navigators, navigator entities, certified application counselors, or certified application counselor organizations, and who do not represent themselves as such to the public are not required to register with the federal government. Pursuant to court orders entered into by the Department, it will register entities and individuals registered with the U.S. Department of Health and Human Services as navigators, navigator entities, certified application counselors, or certified application counselor organizations. Individuals or entities representing themselves to the public as navigators, navigator entities, certified application counselors, or certified application counselor organizations must also register with the federal government and with the Department of Commerce and Insurance.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The Department of Commerce and Insurance has considered whether the proposed rules in these Rulemaking Hearing Rules are such that they will have an economic impact on small businesses (businesses with fifty (50) or fewer employees). The proposed rules are anticipated not to have a significant economic impact affecting small businesses. T.C.A. §§ 56-2-301, 56-6-104, 56-8-101 through 56-8-113 and 56-6-1301 through 56-6-1305 and 2014 Public Acts 2013, Chapter 377 authorize the Commissioner to promulgate rules in order to regulate the activities of navigators. The proposed rules create a registration and continuing education program for navigators and certified application counselors to ensure that individuals who have been convicted of a felony cannot act as navigators or certified application counselors in this State. Further, these rules provide penalties for violations of these regulations. These rules are necessary for the Commissioner of Commerce and Insurance to establish criteria for registering navigators to keep convicted felons from gaining access to Tennessee citizens' financial information and to ensure that navigators are not acting as insurance producers.

The outcome of the analysis set forth in Tenn. Code Ann. § 4-5-403 is as follows:

- (1) The proposed rules will only apply to entities and individuals registered with the U.S. Department of Health and Human Services as navigators, navigator entities, certified application counselors, or certified application counselor organizations and to individuals or entities representing themselves to the public as navigators, navigator entities, certified application counselors, or certified application counselor organizations.
- (2) The projected administrative costs associated with complying with this rule are minimal. There is no licensing or registration fee associated with registering as a navigator, navigator entity, certified application counselor, or certified application counselor organization under this rule. Navigators and certified application counselors will be required to meet twelve (12) hours of continuing education requirements each year, however, the rules allow navigator entities and certified application counselor organizations to develop and provide continuing education programs for their own employees.
- (3) The effect on small businesses is negligible. The proposed amendment will have no effect on consumers and will only affect navigators, navigator entities, certified application counselors, or certified application counselor organizations.
- (4) There are no alternative methods to make the rule less costly, less intrusive or less burdensome.
- (5) There are no other counterparts in the State of Tennessee; however, this regulation is similar to regulations in effect in sixteen (16) different states.
- (6) Only navigators, navigator entities, certified application counselors, or certified application counselor organizations are subject to this rule. Exempting any navigators, navigator entities, certified application counselors, or certified application counselor organizations from this regulation would place Tennessee residents at a greater risk of having their personal information stolen by allowing convicted felons to act as navigators and certified application counselors in this State.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule will not have an impact on local governments.

8

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Sequence Number: 02-10-15

Rule ID(s): 5880

File Date: 2-26-15

Effective Date: 5-21-15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Insurance
Contact Person:	Tony Greer, Assistant General Counsel
Address:	500 James Robertson Parkway Davy Crockett Tower, 8 th Floor Nashville, Tennessee
Zip:	37243
Phone:	615-741-2199
Email:	tony.greer@state.tn.us

Revision Type (check all that apply):

☐ Amendment
☒ New
☐ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0780-01-55	Navigator and Certified Application Counselor Registration Requirements
Rule Number	Rule Title
0780-01-55-.01	Purpose and Scope
0780-01-55-.02	Definitions
0780-01-55-.03	Registration Required
0780-01-55-.04	Application for Registration
0780-01-55-.05	Registration Renewal
0780-01-55-.06	Navigator and Certified Application Counselor Conduct
0780-01-55-.07	Grounds for Placing on Probation, Refusal to Issue or Renew, Revocation or Suspension of Registration
0780-01-55-.08	Reporting to the Commissioner
0780-01-55-.09	Other laws; Severability

New Chapter
0780-01-55
Navigator and Certified Application Counselor Registration Requirements

0780-01-55-.01 Purpose and Scope.
0780-01-55-.02 Definitions.
0780-01-55-.03 Registration Required.
0780-01-55-.04 Application for Registration.
0780-01-55-.05 Registration Renewal.
0780-01-55-.06 Navigator and Certified Application Counselor Conduct.
0780-01-55-.07 Grounds for Placing on Probation, Refusal to Issue or Renew, Revocation or Suspension of Registration.
0780-01-55-.08 Reporting to the Commissioner.
0780-01-55-.09 Other laws; Severability.

Rule 0780-01-55-.01 Purpose and Scope.

The federal Patient Protection and Affordable Care Act creates health insurance exchanges that operate in Tennessee under federal law and employ navigators or certified application counselors whose federally designated and certified role will be to facilitate individuals' and companies' enrollment in qualified health plans offered through such exchanges. The federal government has a system for designating and certifying such individuals and companies. Tennessee Public Acts 2013, ch. 377 reflects the intent of the legislature that licensing and regulation of such navigators and certified application counselors is necessary and in the best interest of the people of Tennessee, to ensure that they are trained and knowledgeable in the subject matter of individual and group health insurance plans and insurance coverage, and to avoid substantial risk to the health, safety, and welfare of the residents of this state. Therefore the Department is hereby creating a registration program to identify and regulate the activity of navigators and certified application counselors in order to appropriately regulate their activity in this State. Individuals or companies who are not actually certified by the United States Department of Health and Human Services as navigators, navigator entities, certified application counselor organizations or certified application counselors or are not required by federal law and regulations to be certified as navigators, navigator entities, certified application counselor organizations or certified application counselors are not required to be registered by this Chapter.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-2-301 and 56-6-1301 through 56-6-1305, Patient Protection and Affordable Care Act, Public Law 111-148 as amended by Public Law 111-152 (2010).

Rule 0780-01-55-.02 Definitions.

When used in this Chapter, unless the context clearly requires otherwise, the term:

- (1) "Commissioner" means the commissioner of the Tennessee Department of Commerce and Insurance;
- (2) "Department" means the Tennessee Department of Commerce and Insurance;
- (3) "Certified application counselor" means any employee or volunteer of a certified application counselor organization that enters into an agreement with the exchange to have its employees or volunteers:
 - (a) Provide information to individuals and employees about the full range of qualified health plan options and insurance affordability programs for which they are eligible;
 - (b) Assist individuals and employees to apply for coverage in a qualified health plan through the exchange and for insurance affordability programs; and
 - (c) Help to facilitate enrollment of eligible individuals in qualified health plans and insurance affordability programs.
- (4) "Certified application counselor organization" means any organization, including an organization designated as a Medicaid certified application counselor organization by a state Medicaid or CHIP

agency, designated by the exchange to certify its staff members or volunteers to act as certified application counselors, and includes those organizations described in 45 CFR § 155.225.

- (5) "Exchange" means any health benefit exchange established or operating in this state, including any exchange established or operated by the United States Department of Health and Human Services.
- (6) "Navigator" means all persons who are certified or are required to be certified by the federal government under the designation of "navigator" under the federal Patient Protection and Affordable Care Act, including any individual or entity, other than an insurance producer licensed pursuant to Title 56, who receives any funding, directly or indirectly, from an exchange, the state, or the federal government to perform any activities and duties identified in 42 U.S.C. 18031(i). Such persons required to be certified as navigators federally include an employee of a navigator grant awardee or sub-grantee of navigator grant awardee who performs the activities and duties identified in 42 U.S.C. 18031(i).
- (7) "Person" means any natural or artificial person including, but not limited to, an individual, partnership, association trust or corporation;
- (8) "Qualified health plan" has the meaning given such term in 42 U.S.C.A. § 18021(a).
- (9) "Registrant" means any person registered under this chapter or any one required to be licensed under this chapter.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-2-301, 56-6-1301 through 56-6-1305, Public Law 111-148 as amended by Public Law 111-152 (2010), 42 U.S.C. § 18021(a), 42 U.S.C. § 18031(i), and 45 CFR Part 155.

Rule 0780-01-55-.03 Registration Required.

- (1) No person shall act as, offer to act as, or advertise any service as a navigator, a certified application counselor or a certified application counselor organization in this state unless the individual or entity is registered with the commissioner pursuant to this rule.
- (2) A person that is a navigator, a certified application counselor or a certified application counselor organization is subject to regulation by the commissioner.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-2-301 and 56-6-1301 through 56-6-1305.

Rule 0780-01-55-.04 Application for Registration.

- (1) An individual applying for a navigator or certified application counselor registration shall make application to the commissioner on a form developed by the commissioner and declare under penalty of refusal, suspension, or revocation of the registration that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:
 - (a) Is at least eighteen years of age;
 - (b) Is not disqualified for having committed any act that would be a ground for denial, suspension, or revocation of a registration under rule 0780-01-55-.07;
 - (c) Has not had an insurance producer license, a navigator license, a certified application counselor license, or an equivalent license or certification denied, suspended, or revoked in any state, province, district, or territory or by the United States Department of Health and Human Services;
 - (d) Has successfully passed the applicable federal training program for navigators or certified application counselors;
 - (e) Has submitted a full set of fingerprints to the commissioner and successfully completed a criminal background check in a manner prescribed by the commissioner. The commissioner may accept an

equivalent criminal background check performed by the navigator entity or the certified application counselor organization;

- (f) When applicable, has the written consent of the commissioner pursuant to 18 U.S.C. 1033 and T.C.A. § 56-53-106(b), or any successor statute regulating crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce;
 - (g) Possesses the requisite character and integrity; and
 - (h) Has identified the entity with which the individual is affiliated and supervised.
- (2) An entity that acts as a navigator, supervises or is responsible for the activities of individual navigators, or receives funding to perform such activities shall obtain a navigator entity registration. An entity applying for navigator entity registration shall:
- (a) Make application on a form and containing the information prescribed by the commissioner;
 - (b) Designate an individual registered as a navigator to be responsible for the entity's compliance with this chapter.
- (3) An entity that acts as a certified application counselor organization, supervises or is responsible for the activities of individual certified application counselors, or receives funding to perform such activities shall obtain a certified application counselor registration. An entity applying for a certified application counselor registration shall:
- (a) Make application on a form and containing the information prescribed by the commissioner;
 - (b) Designate an individual registered as a certified application counselor to be responsible for the entity's compliance with this chapter.
- (4) The commissioner may require any documents deemed necessary to verify the information contained in an application submitted in accordance with rule 0780-01-55-.04(1), (2) and (3).
- (5) Entities registered as navigator shall, in a manner prescribed by the commissioner, provide the commissioner with a list of all individual navigators that are no longer affiliated with the navigator entity within thirty (30) days of the termination of affiliation.
- (6) Entities registered as certified application counselor organizations shall, in a manner prescribed by the commissioner, provide the commissioner with a list of all individual certified application counselors that are no longer affiliated with the certified application counselor organization within thirty (30) days of the termination of affiliation.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-1-107, 56-2-301 and 56-6-1301 through 56-6-1305, 56-53-106 and 18 U.S.C. § 1033.

Rule 0780-01-55-.05 Registration Renewal.

- (1) A navigator, business entity navigator, certified application counselor and certified application counselor organization registration shall be valid for one year. A navigator, business entity navigator, certified application counselor and certified application counselor organization registration shall expire after twelve (12) months after registration. A navigator's, business entity navigator's, certified application counselor's and certified application counselor organization's existing registration shall remain in effect during the pendency of a renewal application.
- (2) Thirty days prior to the end of the twelve (12) month period, a navigator, business entity navigator, certified application counselor and certified application counselor organization may file an application for renewal on the application prescribed by the commissioner.
- (3) Prior to the filing date for application for renewal of a license, an individual navigator or certified application counselor shall complete twelve (12) hours of continuing education requirements with one (1) credit hour equaling fifty (50) minutes in length. An entity registered as a navigator or a certified

application counselor organization shall provide or shall arrange for continuing education to be provided to the individual navigators and certified application counselors. Any failure to fulfill the ongoing continuing education requirements shall result in the expiration of the individual navigator's or certified application counselor's registration. Individual navigators and certified application counselors whose registration has expired for failing to complete the continuing education requirements may not apply for a registration until they have provided satisfactory proof to the commissioner that they have completed the required continuing education requirements and have filed for an application for registration in accordance with rule 0780-01-55-.04.

- (4) For the continuing education provided to navigators and certified application counselors:
- (a) It is recommended that one (1) hour should have course concentration in ethics during each continuing education year.
 - (b) Except for those individuals described in rule 0780-01-55-.05(5), the federal training required for navigators and certified application counselors may only count toward a maximum of five (5) continuing education requirement hours under this rule.
 - (c) It is recommended an educational program should be a formal program of learning which contributes directly to the professional competence of the registrant. It is recommended that such formal programs:
 - 1. File the education program with the commissioner on a form approved by the commissioner;
 - 2. Prepare and maintain a detailed outline for four (4) years after the presentation;
 - 3. Concentrate on subject areas such as:
 - (i) Insurance laws and regulations;
 - (ii) Health insurance overview;
 - (iii) Providing assistance in the marketplace;
 - (iv) Eligibility and enrollment;
 - (v) Privacy and security;
 - (vi) TennCare and other Tennessee assistance programs;
 - (vii) Financial literacy;
 - (viii) Special marketplace circumstances;
 - (ix) Ethics;
 - 4. Avoid subject areas such as:
 - (j) Committee service in any professional organization;
 - (ii) Computer science courses; and
 - (iii) Motivational, psychology, or sales training courses.
 - (d) Reporting of Continuing Education. Entities registered as navigators and certified application counselor organizations shall, in a manner prescribed by the commissioner, provide the commissioner with a list of all individual navigators or certified application counselors that it employs, supervises or is affiliated with on an annual basis upon renewal. This list shall certify that continuing education has been provided for individual navigator and certified application counselor registrants.
 - (e) The commissioner may, upon written request, extend the time in which a registrant must comply with

or grant exception to the continuing education requirements of this Rule for reasons of poor health, military service, or other reasonable and just causes, including situations in which an individual navigator or certified application counselor becomes affiliated with, employed by or supervised by an entity registered as a navigator or a certified application organization and such individual has not completed the continuing education requirements before the individual's renewal because the continuing education has not yet been provided by the entity or organization.

- (5) For individuals registered as navigators and certified application counselors under the emergency Chapter 0780-01-55, that was effective from September 18, 2013 to March 17, 2014, proof of satisfactory completion of federal training requirements shall meet the continuing education requirements for their first registration renewal only, provided such proof is filed with the Department on a form prescribed by the Commissioner.
- (6) For individuals registered as navigators and certified application counselors under the emergency Chapter 0780-01-55, that was effective from September 18, 2013 to March 17, 2014, those registrations shall remain effective until this rule becomes effective. Individuals registered as navigators and certified application counselors under the emergency Chapter 0780-01-55, that was effective from September 18, 2013 to March 17, 2014, may renew their registrations in accordance with the provisions of this rule. For individuals registered as navigators and certified application counselors under the emergency Chapter 0780-01-55, that was effective from September 18, 2013 to March 17, 2014, such registrations shall remain in effect during the review of the renewal application.
- (7) For individuals not registered as navigators and certified application counselors under the emergency Chapter 0780-01-55, that was effective from September 18, 2013 to March 17, 2014, that have received federal navigator or certified application counselor certifications, such applicants may continue to offer navigator or certified application counselor assistance after receiving notification that a completed application that includes a federal certification number has been received by the Department during the review of the application.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-2-301 and 56-6-1301 through 56-6-1305.

Rule 0780-01-55-.06 Navigator and Certified Application Counselor Conduct.

- (1) A navigator or certified application counselor may not:
 - (a) Engage in any activities that would require an insurance producer license;
 - (b) Provide any information or services related to health benefit plans or other products not offered in the exchange except as may be required or contemplated by the duties of such person under federal law or regulation on behalf of the exchange;
 - (c) Accept any compensation or consideration that is dependent, in whole or in part, on whether a person enrolls in or purchases a health plan;
 - (d) Engage in any unfair method of competition or any fraudulent, deceptive, or dishonest act or practice;
or
 - (e) Violate any applicable insurance law or regulation of this state or any subpoena or order of the commissioner.
- (2) Only a person licensed as an insurance producer in this state may:
 - (a) Sell, solicit, or negotiate health insurance.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-2-301, 56-6-103 and 56-6-1301 through 56-6-1305.

Rule 0780-01-55-.07 Grounds for Placing on Probation, Refusal to Issue or Renew, Revocation or Suspension of Registration.

- (1) The commissioner may refuse to issue a registration or, if after providing notice consistent with the process established by T.C.A. § 4-5-320(c) and providing the opportunity for a contested case hearing in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, to be conducted pursuant to the Rules of Procedure for Contested Cases of the Rules of the Secretary of State as compiled at Chapter 1360-04-01, the commissioner may place on probation, suspend, revoke, or refuse to renew or reinstate, a registration issued pursuant to this chapter, or may levy a fine not to exceed One Thousand dollars (\$1000) for each violation, or any combination of actions, for any one or more of the following causes:
- (a) Providing incorrect, misleading, incomplete or materially untrue information in the registration application or any other report or filing submitted to the commissioner or Department;
 - (b) Violating any law, rule, including this Chapter, regulation, subpoena or order of the commissioner or of another state's commissioner;
 - (c) Obtaining or attempting to obtain a license or registration through misrepresentation or fraud;
 - (d) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
 - (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
 - (f) Having been convicted of a felony;
 - (g) Having admitted or been found to have committed any insurance unfair trade practice or fraud;
 - (h) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
 - (i) Having an insurance producer license, navigator license or certified application counselor license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
 - (j) Forging another's name to an application for insurance or to any document related to an insurance transaction;
 - (k) Violating the unfair trade practices as enumerated in § 56-6-125 as if the individual were the insurance producer referenced in that statute.
 - (l) Failing to maintain the certification or approval to be a navigator or certified application counselor, or having such approval terminated, by the Department of Health and Human Services, or the exchange.
- (2) The commissioner may examine and investigate the business affairs and records of any registrant, or any person required to be registered, to determine whether the individual or entity has engaged or is engaging in any violation of this chapter or applicable insurance law.
- (3) The registration of a business entity may be suspended, revoked or subject to a monetary penalty if the commissioner finds, after a hearing, that an individual registrant's violation was known or should have been known by one (1) or more of the partners, officers or managers acting on behalf of the entity and the violation was neither reported to the commissioner nor corrective action taken.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-1-204, 56-2-301, 56-2-305, 56-6-112, and 56-6-1301 through 56-6-1305.

Rule 0780-01-55-.08 Reporting to the Commissioner.

- (1) Each registrant shall report to the commissioner any administrative action taken by a governmental agency against him in this state or in any other jurisdiction within thirty calendar days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.

- (2) A registrant shall immediately report to the commissioner any criminal prosecution of the navigator or certified application counselor taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents. Failure to report within thirty days following the hearing date shall be considered a violation of this rule subject to rule 0780-01-55-.07.
- (3) An entity registered under this chapter that terminates the employment, engagement, affiliation, or other relationship with an individual navigator or certified application counselor shall notify the commissioner within thirty days following the effective date of the termination, using a format prescribed by the commissioner, if the reason for termination is one of the reasons set forth in rules 0780-01-55-.06 or 0780-01-55-.07, or the entity has knowledge the navigator or certified application counselor was found by a court or government body to have engaged in any of the activities in rules 0780-01-55-.06 or 0780-01-55-.07. Upon the written request of the commissioner, the entity shall provide additional information, documents, records, or other data pertaining to the termination or activity of the individual.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-1-204, 56-2-301 and 56-6-1301 through 56-6-1305.

Rule 0780-01-55-.09 Other laws: Severability.

- (1) The requirements of Title 56, Chapter 8, Part 1, and any related rules, shall apply to individuals and entities registered under this chapter. The activities and duties of navigators and certified application counselors shall be deemed to constitute transacting the business of insurance.
- (2) The requirements of this chapter shall not apply to any individual or entity licensed as an insurance producer in this state or any entity or individual exempted from having to have an insurance producer license under T.C.A. § 56-6-104(b)(1).
- (3) The requirements of this chapter shall not apply to hospitals licensed in this state under Title 68 or Title 33 of the Tennessee Code Annotated.
- (4) The requirements of this chapter shall not apply to the Department of Human Services of this state and any employees of the Department of Human Services acting in their official capacities as employees of that department, or any contractors to the extent of their official duties for that department.
- (5) If any provision of this chapter or its application to any person or circumstance is held invalid by a court, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of the chapter are severable and the valid provisions or applications shall remain in full force and effect.

Authority: Acts 2013, ch. 377, T.C.A. §§ 56-2-301, 56-6-104, 56-8-101 through 56-8-113 and 56-6-1301 through 56-6-1305.

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PUBLICATIONS

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of the Department of Commerce and Insurance on 11/4/14 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 12/12/13

Rulemaking Hearing(s) Conducted on: (add more dates). 2/3/14



Date: 11/4/14

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner, Department of Commerce and Insurance

Subscribed and sworn to before me on: 11/4/14

Notary Public Signature: Denise M. Lewis

My commission expires on: 2/15/16

All rulemaking hearing rules provided herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
12/22/2014
Date

Department of State Use Only

Filed with the Department of State on: 2-20-15

Effective on: 5-21-15

Tre Hargett
Tre Hargett
Secretary of State

New Chapter

0780-01-55

Navigator and Certified Application Counselor Registration Requirements

0780-01-55-.01 Purpose and Scope.

0780-01-55-.02 Definitions.

0780-01-55-.03 Registration Required.

0780-01-55-.04 Application for Registration.

0780-01-55-.05 Registration Renewal.

0780-01-55-.06 Navigator and Certified Application Counselor Conduct.

0780-01-55-.07 Grounds for Placing on Probation, Refusal to Issue or Renew, Revocation or Suspension of Registration.

0780-01-55-.08 Reporting to the Commissioner.

0780-01-55-.09 Other laws; Severability.

Rule 0780-01-55-.01 Purpose and Scope.

The federal Patient Protection and Affordable Care Act creates health insurance exchanges that operate in Tennessee under federal law and employ navigators or certified application counselors whose federally designated and certified role will be to facilitate individuals' and companies' enrollment in qualified health plans offered through such exchanges. The federal government has a system for designating and certifying such individuals and companies. Tennessee Public Acts 2013, ch. 377 reflects the intent of the legislature that licensing and regulation of such navigators and certified application counselors is necessary and in the best interest of the people of Tennessee, to ensure that they are trained and knowledgeable in the subject matter of individual and group health insurance plans and insurance coverage, and to avoid substantial risk to the health, safety, and welfare of the residents of this state. Therefore the Department is hereby creating a registration program to identify and regulate the activity of navigators and certified application counselors in order to appropriately regulate their activity in this State. Individuals or companies who are not actually certified by the United States Department of Health and Human Services as navigators, navigator entities, certified application counselor organizations or certified application counselors or are not required by federal law and regulations to be certified as navigators, navigator entities, certified application counselor organizations or certified application counselors are not required to be registered by this Chapter.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-2-301 and 56-6-1301 through 56-6-1305, Patient Protection and Affordable Care Act, Public Law 111-148 as amended by Public Law 111-152 (2010).

Rule 0780-01-55-.02 Definitions.

When used in this Chapter, unless the context clearly requires otherwise, the term:

- (1) "Commissioner" means the commissioner of the Tennessee Department of Commerce and Insurance;
- (2) "Department" means the Tennessee Department of Commerce and Insurance;
- (3) "Certified application counselor" means any employee or volunteer of a certified application counselor organization that enters into an agreement with the exchange to have its employees or volunteers:
 - (a) Provide information to individuals and employees about the full range of qualified health plan options and insurance affordability programs for which they are eligible;
 - (b) Assist individuals and employees to apply for coverage in a qualified health plan through the exchange and for insurance affordability programs; and
 - (c) Help to facilitate enrollment of eligible individuals in qualified health plans and insurance affordability programs.

- (4) "Certified application counselor organization" means any organization, including an organization designated as a Medicaid certified application counselor organization by a state Medicaid or CHIP agency, designated by the exchange to certify its staff members or volunteers to act as certified application counselors, and includes those organizations described in 45 CFR § 155.225.
- (5) "Exchange" means any health benefit exchange established or operating in this state, including any exchange established or operated by the United States Department of Health and Human Services.
- (6) "Navigator" means all persons who are certified or are required to be certified by the federal government under the designation of "navigator" under the federal Patient Protection and Affordable Care Act, including any individual or entity, other than an insurance producer licensed pursuant to Title 56, who receives any funding, directly or indirectly, from an exchange, the state, or the federal government to perform any activities and duties identified in 42 U.S.C. 18031(i). Such persons required to be certified as navigators federally include an employee of a navigator grant awardee or sub-grantee of navigator grant awardee who performs the activities and duties identified in 42 U.S.C. 18031(i).
- (7) "Person" means any natural or artificial person including, but not limited to, an individual, partnership, association trust or corporation;
- (8) "Qualified health plan" has the meaning given such term in 42 U.S.C.A. § 18021(a).
- (9) "Registrant" means any person registered under this chapter or any one required to be licensed under this chapter.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-2-301, 56-6-1301 through 56-6-1305, Public Law 111-148 as amended by Public Law 111-152 (2010), 42 U.S.C. § 18021(a), 42 U.S.C. § 18031(i), and 45 CFR Part 155.

Rule 0780-01-55-.03 Registration Required.

- (1) No person shall act as, offer to act as, or advertise any service as a navigator, a certified application counselor or a certified application counselor organization in this state unless the individual or entity is registered with the commissioner pursuant to this rule.
- (2) A person that is a navigator, a certified application counselor or a certified application counselor organization is subject to regulation by the commissioner.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-2-301 and 56-6-1301 through 56-6-1305.

Rule 0780-01-55-.04 Application for Registration.

- (1) An individual applying for a navigator or certified application counselor registration shall make application to the commissioner on a form developed by the commissioner and declare under penalty of refusal, suspension, or revocation of the registration that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:
 - (a) Is at least eighteen years of age;
 - (b) Is not disqualified for having committed any act that would be a ground for denial, suspension, or revocation of a registration under rule 0780-01-55-.07;
 - (c) Has not had an insurance producer license, a navigator license, a certified application counselor license, or an equivalent license or certification denied, suspended, or revoked in any state, province, district, or territory or by the United States Department of Health and Human Services;
 - (d) Has successfully passed the applicable federal training program for navigators or certified application counselors;

- (e) Has submitted a full set of fingerprints to the commissioner and successfully completed a criminal background check in a manner prescribed by the commissioner. The commissioner may accept an equivalent criminal background check performed by the navigator entity or the certified application counselor organization;
 - (f) When applicable, has the written consent of the commissioner pursuant to 18 U.S.C. 1033 and T.C.A. § 56-53-106(b), or any successor statute regulating crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce;
 - (g) Possesses the requisite character and integrity; and
 - (h) Has identified the entity with which the individual is affiliated and supervised.
- (2) An entity that acts as a navigator, supervises or is responsible for the activities of individual navigators, or receives funding to perform such activities shall obtain a navigator entity registration. An entity applying for navigator entity registration shall:
- (a) Make application on a form and containing the information prescribed by the commissioner;
 - (b) Designate an individual registered as a navigator to be responsible for the entity's compliance with this chapter.
- (3) An entity that acts as a certified application counselor organization, supervises or is responsible for the activities of individual certified application counselors, or receives funding to perform such activities shall obtain a certified application counselor registration. An entity applying for a certified application counselor registration shall:
- (a) Make application on a form and containing the information prescribed by the commissioner;
 - (b) Designate an individual registered as a certified application counselor to be responsible for the entity's compliance with this chapter.
- (4) The commissioner may require any documents deemed necessary to verify the information contained in an application submitted in accordance with rule 0780-01-55-.04(1), (2) and (3).
- (5) Entities registered as navigator shall, in a manner prescribed by the commissioner, provide the commissioner with a list of all individual navigators that are no longer affiliated with the navigator entity within thirty (30) days of the termination of affiliation.
- (6) Entities registered as certified application counselor organizations shall, in a manner prescribed by the commissioner, provide the commissioner with a list of all individual certified application counselors that are no longer affiliated with the certified application counselor organization within thirty (30) days of the termination of affiliation.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-1-107, 56-2-301 and 56-6-1301 through 56-6-1305, 56-53-106 and 18 U.S.C. § 1033.

Rule 0780-01-55-.05 Registration Renewal.

- (1) A navigator, business entity navigator, certified application counselor and certified application counselor organization registration shall be valid for one year. A navigator, business entity navigator, certified application counselor and certified application counselor organization registration shall expire after twelve (12) months after registration. A navigator's, business entity navigator's, certified application counselor's and certified application counselor organization's existing registration shall remain in effect during the pendency of a renewal application.
- (2) Thirty days prior to the end of the twelve (12) month period, a navigator, business entity navigator, certified application counselor and certified application counselor organization may file an application for renewal on the application prescribed by the commissioner.

- (3) Prior to the filing date for application for renewal of a license, an individual navigator or certified application counselor shall complete twelve (12) hours of continuing education requirements with one (1) credit hour equaling fifty (50) minutes in length. An entity registered as a navigator or a certified application counselor organization shall provide or shall arrange for continuing education to be provided to the individual navigators and certified application counselors. Any failure to fulfill the ongoing continuing education requirements shall result in the expiration of the individual navigator's or certified application counselor's registration. Individual navigators and certified application counselors whose registration has expired for failing to complete the continuing education requirements may not apply for a registration until they have provided satisfactory proof to the commissioner that they have completed the required continuing education requirements and have filed for an application for registration in accordance with rule 0780-01-55-.04.
- (4) For the continuing education provided to navigators and certified application counselors:
- (a) It is recommended that one (1) hour should have course concentration in ethics during each continuing education year.
 - (b) Except for those individuals described in rule 0780-01-55-.05(5), the federal training required for navigators and certified application counselors may only count toward a maximum of five (5) continuing education requirement hours under this rule.
 - (c) It is recommended an educational program should be a formal program of learning which contributes directly to the professional competence of the registrant. It is recommended that such formal programs:
 - 1. File the education program with the commissioner on a form approved by the commissioner;
 - 2. Prepare and maintain a detailed outline for four (4) years after the presentation;
 - 3. Concentrate on subject areas such as:
 - (i) Insurance laws and regulations;
 - (ii) Health insurance overview;
 - (iii) Providing assistance in the marketplace;
 - (iv) Eligibility and enrollment;
 - (v) Privacy and security;
 - (vi) TennCare and other Tennessee assistance programs;
 - (vii) Financial literacy;
 - (viii) Special marketplace circumstances;
 - (ix) Ethics;
 - 4. Avoid subject areas such as:
 - (j) Committee service in any professional organization;
 - (ii) Computer science courses; and
 - (iii) Motivational, psychology, or sales training courses.
 - (d) Reporting of Continuing Education. Entities registered as navigators and certified application counselor organizations shall, in a manner prescribed by the commissioner, provide the

commissioner with a list of all individual navigators or certified application counselors that it employs, supervises or is affiliated with on an annual basis upon renewal. This list shall certify that continuing education has been provided for individual navigator and certified application counselor registrants.

- (e) The commissioner may, upon written request, extend the time in which a registrant must comply with or grant exception to the continuing education requirements of this Rule for reasons of poor health, military service, or other reasonable and just causes, including situations in which an individual navigator or certified application counselor becomes affiliated with, employed by or supervised by an entity registered as a navigator or a certified application organization and such individual has not completed the continuing education requirements before the individual's renewal because the continuing education has not yet been provided by the entity or organization.
- (5) For individuals registered as navigators and certified application counselors under the emergency Chapter 0780-01-55, that was effective from September 18, 2013 to March 17, 2014, proof of satisfactory completion of federal training requirements shall meet the continuing education requirements for their first registration renewal only, provided such proof is filed with the Department on a form prescribed by the Commissioner.
- (6) For individuals registered as navigators and certified application counselors under the emergency Chapter 0780-01-55, that was effective from September 18, 2013 to March 17, 2014, those registrations shall remain effective until this rule becomes effective. Individuals registered as navigators and certified application counselors under the emergency Chapter 0780-01-55, that was effective from September 18, 2013 to March 17, 2014, may renew their registrations in accordance with the provisions of this rule. For individuals registered as navigators and certified application counselors under the emergency Chapter 0780-01-55, that was effective from September 18, 2013 to March 17, 2014, such registrations shall remain in effect during the review of the renewal application.
- (7) For individuals not registered as navigators and certified application counselors under the emergency Chapter 0780-01-55, that was effective from September 18, 2013 to March 17, 2014, that have received federal navigator or certified application counselor certifications, such applicants may continue to offer navigator or certified application counselor assistance after receiving notification that a completed application that includes a federal certification number has been received by the Department during the review of the application.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-2-301 and 56-6-1301 through 56-6-1305.

Rule 0780-01-55-.06 Navigator and Certified Application Counselor Conduct.

- (1) A navigator or certified application counselor may not:
 - (a) Engage in any activities that would require an insurance producer license;
 - (b) Provide any information or services related to health benefit plans or other products not offered in the exchange except as may be required or contemplated by the duties of such person under federal law or regulation on behalf of the exchange;
 - (c) Accept any compensation or consideration that is dependent, in whole or in part, on whether a person enrolls in or purchases a health plan;
 - (d) Engage in any unfair method of competition or any fraudulent, deceptive, or dishonest act or practice; or
 - (e) Violate any applicable insurance law or regulation of this state or any subpoena or order of the commissioner.
- (2) Only a person licensed as an insurance producer in this state may:
 - (a) Sell, solicit, or negotiate health insurance.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-2-301, 56-6-103 and 56-6-1301 through 56-6-1305.

Rule 0780-01-55-.07 Grounds for Placing on Probation, Refusal to Issue or Renew, Revocation or Suspension of Registration.

- (1) The commissioner may refuse to issue a registration or, if after providing notice consistent with the process established by T.C.A. § 4-5-320(c) and providing the opportunity for a contested case hearing in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, to be conducted pursuant to the Rules of Procedure for Contested Cases of the Rules of the Secretary of State as compiled at Chapter 1360-04-01, the commissioner may place on probation, suspend, revoke, or refuse to renew or reinstate, a registration issued pursuant to this chapter, or may levy a fine not to exceed One Thousand dollars (\$1000) for each violation, or any combination of actions, for any one or more of the following causes:
 - (a) Providing incorrect, misleading, incomplete or materially untrue information in the registration application or any other report or filing submitted to the commissioner or Department;
 - (b) Violating any law, rule, including this Chapter, regulation, subpoena or order of the commissioner or of another state's commissioner;
 - (c) Obtaining or attempting to obtain a license or registration through misrepresentation or fraud;
 - (d) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
 - (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
 - (f) Having been convicted of a felony;
 - (g) Having admitted or been found to have committed any insurance unfair trade practice or fraud;
 - (h) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
 - (i) Having an insurance producer license, navigator license or certified application counselor license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
 - (j) Forging another's name to an application for insurance or to any document related to an insurance transaction;
 - (k) Violating the unfair trade practices as enumerated in § 56-6-125 as if the individual were the insurance producer referenced in that statute.
 - (l) Failing to maintain the certification or approval to be a navigator or certified application counselor, or having such approval terminated, by the Department of Health and Human Services, or the exchange.
- (2) The commissioner may examine and investigate the business affairs and records of any registrant, or any person required to be registered, to determine whether the individual or entity has engaged or is engaging in any violation of this chapter or applicable insurance law.
- (3) The registration of a business entity may be suspended, revoked or subject to a monetary penalty if the commissioner finds, after a hearing, that an individual registrant's violation was known or should have been known by one (1) or more of the partners, officers or managers acting on behalf of the entity and the violation was neither reported to the commissioner nor corrective action taken.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-1-204, 56-2-301, 56-2-305, 56-6-112, and 56-6-1301 through 56-6-1305.

Rule 0780-01-55-.08 Reporting to the Commissioner.

- (1) Each registrant shall report to the commissioner any administrative action taken by a governmental agency against him in this state or in any other jurisdiction within thirty calendar days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.
- (2) A registrant shall immediately report to the commissioner any criminal prosecution of the navigator or certified application counselor taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents. Failure to report within thirty days following the hearing date shall be considered a violation of this rule subject to rule 0780-01-55-.07.
- (3) An entity registered under this chapter that terminates the employment, engagement, affiliation, or other relationship with an individual navigator or certified application counselor shall notify the commissioner within thirty days following the effective date of the termination, using a format prescribed by the commissioner, if the reason for termination is one of the reasons set forth in rules 0780-01-55-.06 or 0780-01-55-.07, or the entity has knowledge the navigator or certified application counselor was found by a court or government body to have engaged in any of the activities in rules 0780-01-55-.06 or 0780-01-55-.07. Upon the written request of the commissioner, the entity shall provide additional information, documents, records, or other data pertaining to the termination or activity of the individual.

Authority: Tenn. Public Acts 2013, ch. 377, T.C.A. §§ 56-1-204, 56-2-301 and 56-6-1301 through 56-6-1305.

Rule 0780-01-55-.09 Other laws; Severability.

- (1) The requirements of Title 56, Chapter 8, Part 1, and any related rules, shall apply to individuals and entities registered under this chapter. The activities and duties of navigators and certified application counselors shall be deemed to constitute transacting the business of insurance.
- (2) The requirements of this chapter shall not apply to any individual or entity licensed as an insurance producer in this state or any entity or individual exempted from having to have an insurance producer license under T.C.A. § 56-6-104(b)(1).
- (3) The requirements of this chapter shall not apply to hospitals licensed in this state under Title 68 or Title 33 of the Tennessee Code Annotated.
- (4) The requirements of this chapter shall not apply to the Department of Human Services of this state and any employees of the Department of Human Services acting in their official capacities as employees of that department, or any contractors to the extent of their official duties for that department.
- (5) If any provision of this chapter or its application to any person or circumstance is held invalid by a court, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of the chapter are severable and the valid provisions or applications shall remain in full force and effect.

Authority: Acts 2013, ch. 377, T.C.A. §§ 56-2-301, 56-6-104, 56-8-101 through 56-8-113 and 56-6-1301 through 56-6-1305.

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G.O.C. STAFF RULE ABSTRACT

<u>AGENCY:</u>	Underground Storage Tanks and Solid Waste Disposal Control Board
<u>SUBJECT:</u>	Solid Waste Processing and Disposal
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Sections 68-211-101 et seq. and 68-211-801 et seq.
<u>EFFECTIVE DATES:</u>	May 25, 2015 through June 30, 2016
<u>FISCAL IMPACT:</u>	None
<u>STAFF RULE ABSTRACT:</u>	According to the Board, the rules eliminate conflicts and confusion between statutory language and rule text; clarify how TDEC implements qualitative assessments; and modify reporting requirements by clarifying responsibilities, protecting proprietary information, and allowing extensions for local governments to submit their Annual Progress Report under certain circumstances.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment: I'm not opposed to the goal. We've been living with the goal for many years now. I am concerned about how vaguely the goal is written. It just says we are to reduce by 25% the amount of solid waste disposed of at the municipal solid waste disposal facilities and incinerators as measured on a per capita basis. The goal does not state what we're comparing to arrive at this 25% reduction as to whether or not we've met the goal. I'm not sure if that was an oversight or was done intentionally to allow the goal to be adjusted over time, but we are not comfortable with trying to hit a moving target. I think there is a real opportunity missed here to clearly define the goal and what basis is going to be used as comparison.

Response: The proposed rule amendment package does not address the goal, with the exception of a small housekeeping measure of harmonizing the date with the existing statute. The goal methodology is defined by rule, though the formulas are not specifically mentioned. Regions may make the goal with a standard per capita waste reduction method based on a 1995 base year. If circumstances such as poor economy or population changes may have impacted the region negatively, adjustments may be added to help the region meet the goal. The goal methodology was added to the rules in October 2001.

Comment: My concern is the definition of solid waste disposal facility. Is that a purely class I facility or does that include class III/IV facilities? if in fact that does include class III/IV facilities then we have gone away from a true diversion goal to a pure recycling goal. I'm not opposed to a recycling goal, but I feel like this 25% mark is a bit high that we're placing on the solid waste regions, as I read that That's who this goal applies to, is the solid waste regions, and that is in essence county government, and county government only controls a small portion of the waste inside their county boundaries. The majority of the waste is controlled by the municipalities, by business and industry, and other entities, but yet, this goal only applies to us. So it seems to me that goal is fundamentally unfair to county government. It places all the responsibility on their shoulders to meet this goal when we only control a small portion of the waste.

Response: Tennessee has a 25% waste reduction and diversion goal. The current goal allows for Construction and Demolition material sent to Class III/IV landfills to be counted as diversion and towards their 25%. Construction and Demolition materials sent to a recycling or reclamation center are considered recycled and diverted and also count toward the goal. Regions would receive credit towards their 25% waste reduction and diversion goal for this material. Construction and Demolition materials that are beneficially used for applications such as alternate daily cover would still receive credit towards their 25% waste reduction and diversion goal because of the beneficial use designation.

Under the region's solid waste plan to meet the 25% waste reduction and diversion goal, roles and responsibilities are identified for all local governments (counties and municipalities). The region is responsible for effectuating the solid waste plan and the amendments to that plan that were approved by the region's solid waste board to achieve this goal. Each local government that uses solid waste collection has representation on the region's solid waste board and determines how their plan will be implemented. Fairness in implementation is determined by the region's solid waste board based on how the plan is written and implemented not by the goal itself.

Comment: in (4)(c)1(i) it says "The department shall use the submission of the municipal solid waste region's solid waste region's Annual Progress Report for the most current reporting period to determine whether twenty-five percent of the solid waste generated in that year was either diverted from class I facilities or recycled." Traditionally diversion to Class III/IV landfill counted toward the

twenty-five percent goal. This section implies that waste diverted from a Class 1 facility will continue to go toward this goal, however it has been mentioned in several meetings that diversion would not be counted if it was not used in some other form such as mulch or used as boiler fuel. As you can see a clear definition is needed. The adding of additional reporting of Class III/IV landfills being required in section (5)(b), seems to confirm this idea that diversion to Class III/IV landfill will no longer be a part of twenty-five percent goal. If these municipal solid waste facilities do not include class III/IV, why are the class III/IV included in the reporting requirements?

Response: Tennessee has a 25% waste reduction and diversion goal. The current goal allows for Construction and Demolition material sent to Class III/IV landfills to be counted as diversion and towards their 25%. Construction and Demolition materials sent to a recycling or reclamation center are considered recycled and diverted also. Regions would receive credit towards their 25% waste reduction and diversion goal for this material. Construction and Demolition materials that are beneficially used for applications such as alternate daily cover would receive credit towards their 25% waste reduction and diversion goal. By definition, any material that is directed away from a Class I landfill is counted toward the current waste reduction and diversion goal.

The Division will take up the challenge of setting a new goal after the new 2025 Plan is complete and adopted. This will be done in a separate rulemaking package.

The Class III/IV facilities of all types are included in current goal calculations. The addition of Class III/IV landfill reporting is to provide the State and local planning region's crucial information used for solid waste planning across the state and within their region. The solid waste regions have found collection of this information problematic from Class III/IV facilities in the completion of their Annual Progress Reports.

Comment: As a general comment, the words "reduction," "diversion," "recycling" all have different meanings and should not be used interchangeably, as is done repeatedly in the proposed revisions (e.g., use of the word "recycling" at Rule 0400-11-01-.09(4)(b) where the statute uses the term "reduction"). Care should be taken to ensure that the terms are used correctly and appropriately so as to minimize confusion.

Response: Division agrees with the commenter and has revised the rules accordingly.

Comment: It is not clear from the draft regulations presented how these revisions comport with the statutory goal for state waste reduction set forth in Tenn. Code Ann. § 68-211-861(a). Specifically, clarification is needed on how the proposed reporting requirements of Rule 0400-11-01-.09(5) provides meaningful information to address the goal of reducing by twenty five percent (25%) the amount of solid waste disposed of at Class I municipal solid waste disposal facilities and incinerators, which applies to the state and each municipal solid waste region.

Response: According to the Solid Waste Management Act of 1991 as found in T.C.A. §68-211-803 - Public policy.

- (a) *It is declared to be the policy of this state, in furtherance of its responsibility to protect the public health, safety and well-being of its citizens and to protect and enhance the quality of its environment, to institute and maintain a comprehensive, integrated, statewide program for solid waste management, which will assure that solid waste facilities, whether publicly or privately operated, do not adversely affect the health, safety and well-being of the public and do not degrade the quality of the environment by reason of their location, design, method of operation or other means and which, to the extent feasible and practical, makes maximum utilization of the resources contained in solid waste.*
- (b) *It is further declared to be the policy of this state to educate and encourage generators and handlers of solid waste to reduce and minimize to the greatest extent possible the amount of solid waste which requires collection, treatment, incineration or disposal through source reduction, reuse, composting, recycling and other methods.*
- (c) *It is further declared to be the policy of this state to promote markets for, and engage in the purchase of, goods made from recovered materials and goods which are recyclable.*

The proposed paragraph (5) in Rule 0400-11 -01 -.09 addresses specifically measurement which is used to determine the effectiveness of waste reduction strategies by local governments and the regions. A comprehensive integrated solid waste management system has many parts including composting, recycling, disposal, and other beneficial uses. Measurement assists in determining the maximum utilization of the resources contained in the solid waste and the effectiveness of the region implementing the program.

Measurement also helps the regions and the state determine strategies needed to best educate and encourage generators and handlers of solid waste to minimize to the greatest extent possible the amount of waste. The goal of measurement is to manage more effectively the materials collected. This information further determines the attainment of waste reduction action by the regions using the current "Real-Time" method of calculating the waste reduction efforts. The information requested supports local governments in collecting this information.

Further, industries seeking feedstock, siting manufacturing facilities, and services frequently contact local governments and the Division for information relative to these goals.

Comment: As proposed, revised Rule 0400-11-01-.09(5)(c) includes every recovered materials processing facility (MPF) rather than MPFs that manage and process only municipal materials. Consequently, the rule would count the same materials multiple times without relating back to the statutory goal of waste reduction by the state and regions.

The reporting requirements also appear to impose considerable burden on recovered MPFs that is neither required nor authorized by statute.

To address these problems and ensure that the goals of municipal waste reduction are properly measured, the following revisions to proposed Rule 0400-11-01-.09 are recommended:

- a. Define recovered materials processing facilities to exclude secondary recyclers and end-processors and to include only MPFs that manage and recover materials directly from the municipal government (i.e., the county), for the purposes of this rule only;
- b. Require the county (and not MPFs) to report information to the Department regarding the origin and tonnage by commodity type processed;
- c. Authorize or require the county to include a provision in its contracts with a MPF that the MPF shall provide information regarding the origin and tonnage by commodity type processed to the county;
- d. Require the MPF to provide the county with such information on an annual basis (rather than quarterly) and in advance of the regional March 31 progress report deadline; and
- e. Define origin as "county of origin."

Response:

- a. The language has been modified.
- b. The regions and counties already report in the Annual Progress Report the materials they specifically have control over. The regions have found it problematic retrieving information from Material Processing Facilities to aid them in their solid waste planning. The Division is better situated to receive and protect information and provide only this information in an aggregated only format. Language was initially placed in this rule package to protect business sensitive information to safeguard the information and address these concerns up front.
- c. The local governments have had this ability previous to this proposed amendment and it can be done. However this method does not address commercial MPF receiving material

from collectors. The requirement for reporting of Material Processing Facilities should be directed to the State not through local governments as is the Class I landfill Origin Reports for consistent statewide reporting. Provisions have been placed in the proposed rule to protect the business interests and proprietary information. Further, the Division's Data collection system can be configured to further protect these interests. The state is in the best position to collect, protect and report the information in a consistent manner without placing a funding burden on local governments.

d. The required reporting for MPF's has been changed from quarterly to annually.

e. The language has been added.

Comment: It appears that the Division's proposals are moving toward the promotion of recycling. The Division should work with the Board to draft a rule promoting recycling and waste reduction while considering the factors set forth at Tenn. Code Ann. § 68-211-861(g).

Response: The Division is currently in the process of drafting and adopting a new statewide solid waste plan "2025 Plan" that will identify a suggested goal(s). The Board is updated regularly during this process and will have a document review and comment opportunity when the plan is drafted. The next proposed rule package will be for a new goal. Recycling will likely play a part in this new goal. The "2025 Plan" may further recommend recycling initiatives to present to the Board for consideration.

Comment: If this rule becomes effective, are the solid waste regions and county governments going to be required to file a new plan? We all have solid waste plans in place that have been approved by the state. Those plans are amended annually, when we turn in our annual reports. I'm very concerned that if we get a new rule, or a new goal, we will then be required to file a new plan starting from scratch.

Response: Each year the Annual Progress Report updates each region's solid waste plan. The region's solid waste plan will need to conform to any new adopted statewide solid waste plan. At this time, the Division believes this can be accomplished via the Annual Progress Report. Any new plan should build upon the region's existing solid waste plan.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

The proposed rules have minimal effect on small business. Currently there are 79 reporting material recovery processing facilities. The 100 ton per year threshold should exclude the greater majority of any new small business that might meet the definition of Recovered Materials Processing Facility that would have to report under the proposed rule amendments.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There are minimal reporting, recordkeeping, or other administrative costs required for small business from the proposed rules. Businesses already keep these records for normal business operation and the Department provides a free reporting tool that would only take about 15 minutes of time once a year.

- (3) A statement of the probable effect on impacted small businesses and consumers.

The proposed package primarily affects Department procedures dealing with the solid waste region and its local governments. The largest impact to small businesses over 100 tons per year would be to file the necessary report once a year. This should take less than half an hour to complete once a year.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

There are no less burdensome, less intrusive or less costly alternatives to achieving the purpose and objectives of this proposed rule.

- (5) A comparison of the proposed rule with any federal or state counterparts.

EPA-Nationally

The U.S. Environmental Protection Agency's Resource Conservation Challenge (RCC) has developed the 35 Percent Recycling of Municipal Solid Waste Action Plan. This is a national action plan that lays out a framework or road map for increasing the rate of municipal solid waste recycling and helping the country meet a national goal of 35 percent.

Alabama

Alabama requires recovered material processing facilities/material recovery facilities to register and report to the Alabama Department of Environmental Management. Other organizations required to report are municipalities, counties, and end-users.

Arkansas

Arkansas requires counties, authorities/MSW regions, and material recovery facilities to report.

Florida

Florida requires municipalities, counties, and material recovery facilities to report.

Georgia

Georgia has no reporting requirements at this time for any organization.

Kentucky

Kentucky requires material recovery facilities to report.

Mississippi

Mississippi has no reporting requirements.

North Carolina

North Carolina requires municipal, county, authorities/Municipal Solid Waste regions, and sectors to report. Materials recovery facility reporting is voluntary at this time.

South Carolina

South Carolina requires counties to report. Municipalities, material recovery facilities, end-users all have voluntary reporting.

Virginia

Virginia requires municipalities, counties, authorities/MSW regions and sectors to report.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Small businesses collecting and processing less than 100 tons per year have no specific duties or requirements under the proposed rule. However, they are expected to assist the State in meeting the statewide waste reduction goal by working with their local governments and the municipal solid waste planning regions as needed. Small businesses with over 100 tons per year material processed would be required to report once per year tonnages of materials to assist local governments in their solid waste planning efforts in accordance with the Solid Waste Management Act of 1991.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Department anticipates that there will be a positive impact on local governments through:

- * Time savings on compiling annual progress report information,
- * Clarity and improved understanding of qualitative assessment process
- * The ability to have extensions on Annual! Progress Reports if needed.

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Sequence Number: 02-18-15
Rule ID(s): 5882
File Date: 2/26/15
Effective Date: 5/27/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Environment and Conservation
Division:	Solid Waste Management
Contact Person:	Greg Luke
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Revision Type (check all that apply):

- ☒ Amendment
☐ New
☐ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
0400-11-01	Solid Waste Processing and Disposal
Rule Number	Rule Title
0400-11-01-.09	Waste Reduction and Planning

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 0400-11-01
Solid Waste Processing and Disposal

Amendments

Rule 0400-11-01-.09 Waste Reduction and Planning is amended by deleting paragraph (1) in its entirety and substituting instead the following:

(1) General Purpose

~~(a)~~ — The goal of the state is to reduce by twenty-five percent (25%) the amount of solid waste disposed of at the municipal solid waste disposal facilities and incinerators ~~by December 31, 2003~~, as measured on a per capita basis within Tennessee by weight. The goal shall also apply to each municipal solid waste region, but does not apply to individual disposal facilities or incinerators. Individual disposal facilities or incinerators are used only as measurement locations for assessing the achievement of a region's waste reduction efforts. As an alternative to calculating the waste reduction goal on a per capita basis, regions shall have the option of calculating the goal on an economic growth basis using the method prescribed by the Department and approved by the Underground Storage Tanks and Municipal Solid Waste Advisory Committee Disposal Control Board.

Authority: T.C.A. §§ 68-211-101 et seq., 68-211-801 et seq. and 4-5-201 et seq.

Rule 0400-11-01-.09 Waste Reduction and Planning is amended by deleting paragraph (4) in its entirety and substituting instead the following:

~~(4) Qualitative Assessment Methods~~

~~(a) — An assessment method shall be developed by the Department of Environment and Conservation and approved by the Municipal Solid Waste Advisory Committee. This assessment will be applied to Municipal Solid Waste Planning Regions that failed to meet the twenty five percent (25%) waste reduction and diversion goal stated in T.C.A. § 68-211-861(a) according to the 2003 Annual Progress Report submitted to the Division. The qualitative assessment will objectively assess the activities and expenditures of both the Municipal Solid Waste Planning Region and the local governments in the region to determine whether the region's program is qualitatively equivalent to other regions that meet the goal and whether the failure is due to factors beyond the control of the region.~~

~~(b) — The qualitative assessment shall be done in the following two steps:~~

~~1. — The Department shall use the waste and diversion reported by the solid waste region for the most current reporting period to determine whether in that year twenty five percent of the solid waste generated in that year was either diverted from class I facilities or recycled. If it was, the region meets the qualitative assessment and the department does not proceed to the next step.~~

~~2. — The Department shall evaluate the programs in those regions that do not satisfy subparagraph (2)(a) of this rule to determine if they are qualitatively equivalent to those that did meet the 25% recycling and diversion goal by evaluating at least the following solid waste program activities for the most current reporting period, giving the first two items the greatest weight:~~

~~(i) — waste reduction and recycling programs and systems;~~

~~(ii) — waste diversion programs and systems;~~

~~(iii) — solid waste education programs and systems;~~

~~(iv) waste collection and handling systems; and~~

~~(v) solid waste program budgets and staffing.~~

~~The methodology shall make comparisons between regions that are as similar as possible in terms of population and socio-economic level to the region that failed to meet the goal.~~

(4) Qualitative Assessment and Noncompliance

(a) A qualitative assessment, as defined below, will be applied to municipal solid waste regions that failed to meet the twenty-five percent (25%) waste reduction and diversion goal stated in T.C.A. § 68-211-861(a) based on data from the region's Annual Progress Report submitted to the Division. The qualitative assessment will objectively assess the activities and expenditures of both the municipal solid waste region and the local governments in the region to determine whether the region's program is qualitatively equivalent to other regions similar in population and socio-economic level that meet the goal and whether the failure is due to factors beyond the control of the region.

(b) The Department shall evaluate the programs in those regions that do not satisfy this rule to determine if they are qualitatively equivalent to those that did meet the 25% waste reduction and diversion goal.

(c) Noncompliance Procedures

1. The review of solid waste regions identified to be qualitatively assessed by the Department shall be accomplished through the following methodology:

(i) The Department shall use the submission of the municipal solid waste region's Annual Progress Report for the most current reporting period to determine whether 25% of the solid waste generated in that year was either diverted from Class I facilities or recycled. If it was, the region meets the goal and the Department does not proceed to the next step. The region is considered qualitatively equivalent.

(ii) Regions that are not found qualitatively equivalent in the first step shall continue the qualitative assessment and be compared to two other regions that are most equivalent in population and socio-economic level.

(iii) The Department shall evaluate the programs in those regions that do not satisfy this rule to determine if they are qualitatively equivalent to those that did meet the 25% waste reduction and diversion goal by evaluating at least the following current solid waste program activities, giving the first three items the greatest weight:

(I) waste reduction and recycling programs and systems;

(II) waste diversion programs and systems;

(III) the quality of the region's municipal solid waste plan;

(IV) solid waste education programs and systems;

(V) waste collection and handling systems;

(VI) solid waste program budgets and staffing; and

(VII) a cost benefit analysis of the waste reduction and recycling progress as well as the solid waste generation in the region.

- (iv) As part of the evaluation of subpart (iii) of this part, the Department shall visit the region and meet with the appropriate officials from each local government to research and investigate programs and activities listed in subpart (iii) of this part.
- (v) The Department shall prepare a comprehensive report for the region providing an analysis of program activities and explaining findings, recommendations, and any required activities. The Department shall meet with each local government in the region to review the comprehensive report and provide the region and its member local governments at least thirty (30) days to prepare a written response that shall be included in the final report prior to finalizing and publishing.
- (vi) Findings. The Department shall clearly identify to the region or the local governments assessed their status upon completion of the qualitative assessment. This status shall be one of the following:
 - (I) Qualitatively Equivalent – The local government or region is qualitatively equivalent to the comparison regions. This means that the systems and activities are equal to comparison counties, but the region failed to meet the goal through no fault of their own.
 - (II) Marginally Qualitatively Equivalent – The local government or region is marginally qualitatively equivalent to the comparison regions. This means that some systems and activities are equal to comparison regions, but some are not. Further, the solid waste plan is not being followed and may be contributing to the goal not fully being attained. The Department for purposes of goal achievement shall deem the region or local governments as equivalent but may require remedial activities or need to follow-up to assist the region in strengthening efforts to attain the goal.
 - (III) Qualitatively Not Equivalent – The local government or region is not qualitatively equivalent to one or more of the comparison regions. This means that many systems or activities may be equal to the comparison counties, but more than half are not and the region or local government did not meet the goal. The Department may direct or prescribe efforts to assist the region in achieving their goal.
 - (IV) Qualitatively Not Equivalent (No-Fault) – The local government or region is not qualitatively equivalent to one or more of the comparison regions, but has mitigating circumstances like topography or geography that prevents qualitative equivalency.
- 2. If a region is determined qualitatively not equivalent to comparison regions, the Department shall work with the region and its member local governments to establish a timetable to achieve the goal and achieve compliance with the Act. This may include technical assistance (system design, improvements, and needs assessments), grant offerings, workshops, and other activities designed to assist the region in achieving the goal.
- 3. If a region that has been found not to be qualitatively equivalent complies with the required recommendations for two years, it shall be deemed to have returned to compliance and not be subject to penalties.
- (d) Except as provided in subparagraph (a) of this paragraph, failure to comply with the applicable requirements of this rule will subject any entity to the penalties provided by T.C.A. §§ 68-211-816 and 68-211-861.

Authority: T.C.A. §§ 68-211-101 et seq., 68-211-801 et seq. and 4-5-201 et seq.

Rule 0400-11-01-.09 Waste Reduction and Planning is amended by adding new a paragraph (5) to read as follows:

(5) Reporting

- (a) Class I landfills shall report to the Department, on forms provided by the Department, the county of origin and tonnage of municipal solid waste on a quarterly basis within thirty (30) days after the end of the quarter.
- (b) Class III and Class IV landfills shall report to the Department, on forms provided by the Department, the county of origin and tonnage of material data collected and disposed on an annual basis by January 31st for the previous calendar year. Volume data shall be converted from cubic yards to tons at a conversion factor of 4 cubic yards per ton.
- (c) Recovered Materials Processing Facilities (RMPF) that manage over 100 tons per year of reclaimed, recovered or recycled materials or are publically owned shall report to the Department, on forms provided by the Department, the county of origin and tonnage by commodity type processed by March 1 of each calendar year. Material Processing Facilities may optionally report this information on a quarterly basis on forms provided by the Department.

For the purposes of this paragraph, RMPFs shall not include end processors of materials or secondary/intermediate collectors of recycled materials. Only RMPFs that initially receive recycled materials directly from the public (including commercial collections, contracted collections, etc.) and process and market these materials to secondary, intermediate or end users are required to report under this paragraph.

- (d) Material data collected from private sector recovered materials processing facilities shall be considered proprietary business information if requested by the private material recovery facility, and shall be protected as such and not be disclosed in a non-aggregated format. Data ownership information shall not be disclosed in this circumstance unless authorized by the data originator to do so.
- (e) All municipal solid waste planning regions shall submit by March 31st in the calendar year immediately following the reporting year their annual progress report by county. The region may request in writing prior to the due date an additional thirty (30) days to submit all required information. Additional time may be granted by the Commissioner for good cause shown.

Authority: T.C.A. §§ 68-211-101 et seq., 68-211-801 et seq. and 4-5-201 et seq.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Marty Calloway	X				
Stacy Cothran	X				
Kenneth L. Donaldson				X	
Dr. George Hyfantis, Jr.	X				
Bhag Kanwar	X				
Jared L. Lynn	X				
David Martin				X	
Beverly Philpot	X				
DeAnne Redman	X				
Mayor Franklin Smith, III				X	
Mark Williams	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Underground Storage Tanks and Solid Waste Disposal Control Board on 08/20/2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/07/13

Rulemaking Hearing(s) Conducted on: (add more dates). 01/29/14

Date: August 20, 2014

Signature: *Marty Calloway*

Name of Officer: Marty Calloway

Title of Officer: Chairman



Subscribed and sworn to before me on: August 20, 2014

Notary Public Signature: *Brenda Carr*

My commission expires on: July 3, 2017

MY COMMISSION EXPIRES:
July 3, 2017

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery, III

Herbert H. Slatery, III
Attorney General and Reporter

January 28, 2015

Date

Department of State Use Only

Filed with the Department of State on: 2/26/15

Effective on: 5/27/15

Tre Hargett

Tre Hargett
Secretary of State

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Finance and Administration

DIVISION: Bureau of TennCare

SUBJECT: Appeals of Certain Eligibility Determinations and
TennCare Delay Hearings

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 71-5-112; 42
U.S.C. Sections 1396a(a)(3), (5), and (8); 42 C.F.R.
431 Subpart E; and 42 C.F.R. Section 435.912

EFFECTIVE DATES: May 3, 2015 through June 30, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rule chapter makes permanent emergency
rules that are scheduled to expire on May 6, 2015,
which rules are necessary for the Bureau of
TennCare to provide hearings for determining
eligibility of applicants for TennCare, CoverKids
and Medicare Savings Programs.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public comments received on this rule chapter.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The rule chapter is not anticipated to have an impact on small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rule chapter is not anticipated to have an impact on local governments.

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For Department of State Use Only

Sequence Number: 02-01-15

Rule ID(s): 5869

File Date: 2/2/2015

Effective Date: 5/3/2015

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205). Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Finance and Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
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Revision Type (check all that apply):

☐ Amendment

☒ New

☐ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-13-19	Appeals of Certain Eligibility Determinations and TennCare Delay Hearings
Rule Number	Rule Title
1200-13-19-.01	Scope and Authority
1200-13-19-.02	Definitions
1200-13-19-.03	Accessibility
1200-13-19-.04	Notice of Eligibility Determination
1200-13-19-.05	Appeal Rights, Notices and Procedures
1200-13-19-.06	Time
1200-13-19-.07	Dismissal of Appeal or Request for Hearing
1200-13-19-.08	Filing and Service of Pleadings and Other Materials
1200-13-19-.09	Telephonic and Alternate Electronic Methods for Conducting Prehearing Conferences and Hearings
1200-13-19-.10	Commencement of Contested Case Proceedings
1200-13-19-.11	Representation by Counsel
1200-13-19-.12	Pre-Hearing Motions
1200-13-19-.13	Continuances
1200-13-19-.14	Discovery
1200-13-19-.15	Order of Proceedings
1200-13-19-.16	Default and Uncontested Proceedings

1200-13-19-. 17	Evidence
1200-13-19-.18	Initial and Final Orders
1200-13-19-.19	Appeal of Initial Orders
1200-13-19-.20	Reconsideration
1200-13-19-.21	Stay
1200-13-19-.22	Judicial Review
1200-13-19-.23	Clerical Mistakes
1200-13-19-.24	Agency Record
1200-13-19-.25	Code of Judicial Conduct, Disqualification and Separation of Functions

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Rules of the Bureau of TennCare/Medicaid, 1200-13, are amended by adding a New Chapter 19 titled Appeals of Certain Eligibility Determinations and TennCare Delay Hearings, as follows:

New Rule

Chapter 1200-13-19

Appeals of Certain Eligibility Determinations and TennCare Delay Hearings

Table of Contents

1200-13-19-.01 Scope and Authority
1200-13-19-.02 Definitions
1200-13-19-.03 Accessibility
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1200-13-19-.23 Clerical Mistakes
1200-13-19-.24 Agency Record
1200-13-19-.25 Code of Judicial Conduct, Disqualification and Separation of Functions

1200-13-19-.01 Scope and Authority. This chapter governs all administrative hearings conducted for the purpose of reviewing eligibility determinations for the following categories which use the MAGI income methodology: Children Under 19, Pregnant Women, Caretaker Relatives, CHIP - Children and Pregnancy (CoverKids/HealthyTNBabies). Eligibility determination appeals for any other eligibility category will not be governed by this chapter. This chapter will govern all delay hearings for all eligibility categories. These rules preempt any other TennCare Rules to the extent that they are in conflict with this chapter.

- (1) The Tennessee Medical Assistance Act of 1968 and Executive Order Number 23, dated October 19, 1999, designate the Tennessee Department of Finance and Administration as the single state agency for purposes of administering Title XIX of the Social Security Act (Medicaid).
- (2) The CoverKids Act of 2006 authorizes the Tennessee Department of Finance and Administration to establish and administer a program to provide health care coverage to uninsured children under Title XXI of the Social Security Act (State Children's Health Insurance Program).
- (3) Titles XIX and XXI of the Social Security Act, TennCare II Medicaid Section 1115 Demonstration Waiver, and 42 CFR Subpart E require the designated state agency to provide for appeals and fair hearings concerning eligibility determinations for applicants and recipients of assistance and services provided through the programs.

- (4) The Commissioner of the Department of Finance and Administration has placed responsibility for eligibility determination appeal hearings in the Division of Health Care Finance and Administration (HCFA), except as specifically delegated to the Department of Human Services, HCFA employs Administrative Judges vested with full authority to conduct the hearing process, including authority to schedule and conduct a hearing; administer oaths; issue subpoenas; rule upon offers of proof; regulate the course of the hearing; set the time and place for continued hearings; enter an Initial Order; rule on petitions for reconsideration; and perform duties or actions that are necessary for the fair and timely management of the administrative hearing process.
- (5) Tennessee Code Annotated § 71-5-112 requires any hearing concerning matters of eligibility for medical assistance to be conducted under the Tennessee Uniform Administrative Procedures Act.
- (6) Any procedural matter not specifically addressed by these rules is to be resolved by consulting the following authorities in the order listed: the Tennessee Uniform Administrative Procedures Act (UAPA), the Uniform Rules of Procedure For Hearing Contested Cases Before State Administrative Agencies (UAPA Rules), and the Tennessee Rules of Civil Procedure (TRCP).

1200-13-19-.02 Definitions.

- (1) Administrative Judge. An impartial employee of the Agency who has no direct involvement in the action under consideration prior to the filing of the appeal; is licensed to practice law; is authorized to conduct administrative hearings; and, will hear contested cases and will enter Initial Orders as set out in T.C.A. §§ 4-5-301 (a)(2) and 314(b).
- (2) Agency. The TennCare Bureau or CoverKids, as applicable.
- (3) Agency Record. The Agency record will consist solely of: notice of all proceedings; any pre-hearing order; any motions, pleadings, briefs, petitions, requests and intermediate rulings; evidence received or considered; a statement of matters officially noticed; proffers of proof and objections and rulings thereon; proposed findings, requested orders, and exceptions; the tape recording, stenographic notes or symbols, or transcript of the hearing; any Final Order, Initial Order, or order on reconsideration; staff memoranda or data submitted to the Agency unless prepared and submitted by personal assistants and not inconsistent with T.C.A. § 4-5-304(b); and matters placed on the record after an ex parte communication. The Record must be maintained for a period of time not less than three (3) years as required by T.C.A. § 4-5-319(a). This will be the official record for the purposes of T.C.A. § 4-5-322.
- (4) Appeal. The process of obtaining an administrative hearing as a result of an Agency action or inaction regarding matters affecting eligibility for TennCare or CoverKids, or the process of obtaining review of an initial Order by the Commissioner's Designee or judicial review of a Final Order.
- (5) Appeal Request. Request for a hearing.
- (6) Appellant. An applicant or enrollee whose appeal of an action or inaction of the Agency has been determined to present a valid factual dispute. The Appellant bears the burden of proof in any hearing conducted under this chapter. Also referred to as the Petitioner.
- (7) Applicant. An individual who submits an application for TennCare or CoverKids health coverage, or the Medicare Savings Program, or the person who acts as an authorized representative for the applicant.
- (8) Burden of Proof. The minimum evidentiary standard required in order to prevail in an administrative hearing is a preponderance of the evidence. A "preponderance of the evidence" means the greater weight of the evidence or that, according to the evidence, the conclusion sought by the party with the burden of proof is the more probable conclusion. The Appellant bears the burden of proof in any hearing conducted under this chapter.
- (9) Children's Health insurance Program (CHIP). A program established and administered by a State, jointly funded with the Centers for Medicare and Medicaid Services (CMS), to provide health assistance to uninsured, low-income children through a separate child health program, a Medicaid expansion program, or a combination program.

- (10) Clerk's Office. The Agency Appeals Clerk's Office.
- (11) Commissioner. The chief administrative officer of the Tennessee department where the Bureau of TennCare is administratively located.
- (12) Commissioner's Designee. A person authorized by the Commissioner to review appeals of Initial Orders and to enter Final Orders under T.C.A. § 4-5-315, or to review Petitions for Stay or Reconsideration of Final Orders. Petitions for Reconsideration of an Initial Order will be disposed of by the same person who rendered the Initial Order, if available.
- (13) Contested Case Proceeding. See "Hearing".
- (14) CoverKids. The Children's Health Insurance Program in Tennessee.
- (15) Delay Appeal. An appeal of an application that has been pending for longer than 45 days, or 90 days for CHOICES applications, with the sole purpose of determining whether the delay in processing is unreasonable.
- (16) Ex Parte Communication. An exchange of information regarding an issue of fact in a contested case proceeding between one party and the Administrative Judge without including the opposing party. Communication may take place orally or in writing, by telephone, face-to-face, or electronically. Communications between Agency members or their attorneys are not considered to be ex parte. An Administrative Judge, hearing officer, or Agency member may communicate with the Agency regarding any matter pending before the Agency if such persons do not receive ex parte communications of a type that the Administrative Judge, hearing officer, or Agency members would be prohibited from receiving, and do not furnish, augment, diminish, or modify the evidence in the record. Matters of scheduling, dismissal, withdrawal or other administrative issues are not ex parte communications.
- (17) Fair Hearing. See "Hearing".
- (18) Findings of Fact. The factual findings following the administrative hearing, enumerated in the Initial and Final Order, which include a concise and explicit statement of the underlying facts of record to support the findings.
- (19) Final Order. The Initial Order becomes a Final Order in fifteen (15) days without further notice if not appealed. If the Initial Order is reviewed under T.C.A. § 4-5-315, the Commissioner or Commissioner's Designee may render a Final Order. The Final Order is binding upon all parties unless it is stayed, reversed or set aside according to applicable rules. A statement of the procedures and time limits for seeking reconsideration or judicial review must be included.
- (20) Good Cause. A legally sufficient reason. In reference to an omission or an untimely action, a reason based on circumstances outside the party's control and despite the party's reasonable efforts.
- (21) Hearing. A contested case proceeding where evidence is heard by an Administrative Judge to render a decision regarding an applicant's or enrollee's delayed adjudication or eligibility appeal, conducted under this Chapter. Also referred to as a Fair Hearing or a Contested Case Proceeding.
- (22) Initial Order. The decision of the Administrative Judge following an administrative hearing. The Initial Order must contain the decision, findings of fact, conclusions of law, the policy reasons for the decision and the remedy prescribed. It must include a statement of any circumstances under which the Initial Order may, without further notice, become a Final Order. A statement of the procedures and time limits for seeking reconsideration or other administrative relief and the time limits for seeking judicial review will be included.
- (23) Modified Adjusted Gross income (MAGI). Has the same meaning as is found in 42 C.F.R. § 435.603.
- (24) Notice of Hearing. The pleading filed with the TennCare Administrative Hearing Unit by the Agency upon receipt of an appeal. It must contain a statement of the time, place, nature of the hearing, and the right to

be represented by counsel or another authorized person of his choice; a statement of the legal authority and jurisdiction under which the hearing is to be held, referring to the particular statutes and rules involved; and a short and plain statement of the matters asserted, in compliance with T.C.A. §4-5-307(b),

- (25) Party. Each person or Agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.
- (26) Petitioner. See Appellant.
- (27) Pleadings. Written statements of the facts and law which constitute a party's position or point of view in a contested case and which, when taken together with the other party's pleadings, will define the issues to be decided in the case. Pleadings may be in legal form, such as a "Notice of Hearing", "Petition for Hearing" or "Answer", or, where not practicable to put them in legal form, letters or other papers may serve as pleadings in a contested case, if necessary to define what the parties' positions are and what the issues in the case will be.
- (28) Request for a Hearing. A clear expression by the applicant or beneficiary, or his authorized representative, that he wants the opportunity to present his case to a reviewing authority.
- (29) Representative. An individual or organization, including legal counsel, a relative, a friend, or another spokesperson, authorized by an appellant to represent him during an appeal.
- (30) Respondent. The party who is responding to the action brought by the petitioner, usually the Agency.
- (31) Single State Agency. The Tennessee Department of Finance and Administration, designated by the State and CMS pursuant to Title XIX of the Social Security Act and the Section 1115 Research and Demonstration waiver granted to the State of Tennessee to administer TennCare.
- (32) TennCare. The program administered by the Single State Agency as designated by the State and CMS pursuant to Title XIX of the Social Security Act and the Section 1115 Research and Demonstration waiver granted to the State of Tennessee.
- (33) Valid Factual Dispute. A dispute that, if resolved in favor of the appellant, would prevent the state from taking the action that is the subject of the appeal.

1200-13-19-.03 Accessibility. Information concerning the availability of language assistance must be provided to applicants and enrollees, including individuals with disabilities or who have limited English proficiency, in plain language and in a manner that is accessible and timely as required by the Americans with Disabilities Act and section 504 of the Rehabilitation Act.

1200-13-19-.04 Notice of Eligibility Determination.

- (1) The Agency must send each applicant a written notice of the Agency's decision on his application, and if eligibility is denied, the reasons for the action, the specific regulation supporting the action, and an explanation of his right to request a hearing.
- (2) Before an application is denied for lack of documentation or conflicting information, the Agency will notify the applicant of the type of documentary proof he must submit in order to meet the eligibility requirements set out in 42 C.F.R. Part 435.

1200-13-19-.05 Appeal Rights, Notices and Procedures.

- (1) The Agency must grant an opportunity for a hearing to the following:
 - (a) Any applicant who requests it because his claim for services is denied or is not acted upon with reasonable promptness.
 - (b) Any beneficiary who requests it because he believes the Agency has taken an action erroneously.

- (c) Any enrollee who is entitled to a hearing under 42 C.F.R. 438 subpart B.
- (2) The Agency need not grant a hearing if the sole issue is a Federal or State law requiring an automatic change adversely affecting some or all beneficiaries.
- (3) When the Agency receives an appeal from an appellant, the Agency will dismiss this appeal unless the appellant has established a valid factual dispute relating to the appeal. The Agency will screen all appeals submitted by appellants to determine if each appellant has presented a valid factual dispute, if the Agency determines that an appellant failed to present a valid factual dispute, the Agency will immediately provide the appellant with a notice informing him that he must provide additional information as identified in the notice, if the appellant does not provide this information within ten (10) days of the date of the notice, the appeal will be dismissed without the opportunity for a fair hearing, if the appellant adequately responds to this notice, the Agency will inform the appellant that the appeal will proceed to a hearing. If the appellant responds but fails to provide adequate information, the Agency will provide a notice to the appellant, informing him that the appeal is dismissed without the opportunity for a fair hearing. If the appellant does not respond, the appeal will be dismissed without the opportunity for a fair hearing, without further notice to the appellant.
- (4) The Agency must provide notice of his right to a hearing; of the method by which he may obtain a hearing; and that he may represent himself or use a representative at the time:
 - (a) The individual applies for CoverKids or TennCare; and
 - (b) Of any action affecting his eligibility.
- (5) The notice of appeal rights and procedures must contain:
 - (a) A statement of what action the Agency intends to take;
 - (b) The reasons for the intended action;
 - (c) The specific rules that support, or the change in Federal or State law that requires, the action;
 - (d) An explanation of:
 - 1. The individual's right to request a hearing; or
 - 2. in cases of an action based on a change in law, the circumstances under which a hearing will be granted; and
 - 3. The circumstances under which Medicaid is continued if a hearing is requested.

1200-13-19-.06 Time.

- (1) In computing any period of time prescribed or allowed by statute, rule or order, the date of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the time period is to be included unless it is a Saturday, a Sunday or a legal holiday, which extends the period until the end of the next day which is neither a Saturday, a Sunday nor a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays are excluded in the computation. The Notice of Hearing shall provide notice of this provision or inform the applicant or recipient of the specific calendar dates by which certain actions must be taken.
- (2) Except in regard to petitions for appeal, reconsideration or review under T.C.A. §§ 4-5-315, 4-5-317 and 4-5-322, or where otherwise prohibited by law, when an act is required or allowed to be done at or within a specified time, the Agency or Administrative Judge may, at any time:
 - (a) With or without motion or notice, order the period enlarged if the request is made before the expiration of the period originally prescribed or as extended by previous order; or
 - (b) Upon motion made after the expiration of the specified period, permit the act to be done late, where the failure to act was the result of excusable neglect. Nothing in this section is to be

construed to allow any ex parte communications concerning any issue in the proceeding that would be prohibited by T.C.A. § 4-5-304.

- (3) An appeal or request for a hearing must be received by the Agency within forty (40) calendar days (inclusive of mail time) of the date of the Agency notice to the individual regarding the intended action or prior to the date of action specified in the notice, whichever is later, unless good cause can be shown as to why the appeal or request for a hearing could not be filed within the required time limit.
- (4) Any communication submitted electronically must be received by midnight of the designated date.

1200-13-19-.07 Dismissal of Appeal or Request for Hearing.

- (1) The Agency may close a request for a delay appeal upon making an eligibility determination.
- (2) The Agency may dismiss a request for hearing if the appeal request has been withdrawn by the appellant in writing or through electronic or oral notification.
- (3) The Agency may dismiss a previously accepted appeal upon evidence presented at a good cause hearing, pre-hearing conference, or in the pleadings that the appeal was not timely filed and that good cause for the untimely filing did not exist.
- (4) Upon appropriate proof, the Agency may dismiss an appeal at any point in the hearing process for any of the reasons that the appeal might be denied by the Agency by rule or law, if such facts had been known by the Agency before the appeal was accepted for hearing.
- (5) The Agency must dismiss an appeal or request for hearing if the appeal does not present a valid factual dispute and the appellant does not provide additional information or clarification to establish a valid factual dispute within fifteen (15) (inclusive of mail time) days of an Agency request. The Agency decision that an appeal does not raise a valid factual dispute is not appealable.
- (6) When the Agency dismisses an appeal it must provide a timely notice of dismissal to the appellant, stating:
 - (a) The reason for dismissal;
 - (b) An explanation of the dismissal's effect on the appellant's eligibility; and
 - (c) An explanation of how the appellant may show good cause why the dismissal should be vacated.

1200-13-19-.08 Filing and Service of Pleadings and Other Materials.

- (1) After an appeal is filed, all pleadings and any other materials that are required to be filed by a time certain must be received by the Clerk's Office by the specified time. The materials may be filed by delivering them to the Agency in person, electronically, by mail or by private carrier.
- (2) Upon initiation of a contested case, all pleadings and other materials required to be filed or submitted prior to the hearing must be filed with the Clerk's Office, where they will be stamped with the date of receipt.
- (3) A petition for appeal of an Initial Order or for reconsideration or stay of an initial or Final Order must be filed with the Agency.
- (4) Discovery materials that are not actually introduced as evidence need not be filed, except as provided in this Chapter.
- (5) Copies of all materials filed with the Agency in a contested case shall also be served upon all parties, or upon their counsel, and contain a statement indicating that copies have been served upon all parties. Service may be by mail or equivalent carrier, by hand delivery, or in electronic format.

1200-13-19-.09 Telephonic and Alternate Electronic Methods for Conducting Prehearing Conferences and Hearings. In the discretion of the Administrative Judge, and with the concurrence of the parties, any pre-hearing conference or hearing may be conducted by telephone or other electronic means, if each participant in the conference or hearing has an opportunity to fully participate in the entire proceeding while it is taking place.

1200-13-19-.10 Commencement of Contested Case Proceedings.

- (1) The appellant or his representative may request an appeal or a hearing by any clear expression, oral, written, or through other commonly available electronic means.
- (2) Upon determination that an appeal or a request for a hearing contains a valid factual dispute, the Agency will issue a notice of hearing as defined in this chapter. The notice of hearing must:
 - (a) Contain a statement of the date, time, place, and nature of the hearing;
 - (b) Inform the appellant of the right to be represented by counsel or another authorized person of his choice;
 - (c) Contain a statement of the legal authority and jurisdiction under which the hearing will be held, including references to the specific statutes and rules involved;
 - (d) Contain instructions to the appellant to notify the Agency if he requires a change in the schedule;
 - (e) Provide a short and plain statement of the matters asserted and define the issues and refer to detailed statements of the matters involved, if available;
 - (f) Provide information about hearing procedures, including the right to present written evidence and testimony and to bring witnesses and members of his family to the hearing.
 - (g) Inform the appellant of his right to inspect the Agency file regarding the matter under appeal and to copy from the file.
- (3) Service of Notice of Hearing.
 - (a) The Agency will provide the appellant or his representative with a copy of the notice of hearing by delivering it to the party electronically; by U.S. Mail; by certified mail; FedEx, UPS, or equivalent carrier; or by personal service. The notice will be sent a minimum of ten (10) days in advance of the date of the hearing. Delivery is presumed within five (5) days if sent by regular mail; the day following for expedited or overnighted delivery; the same day for electronic delivery and personal service.
 - (b) Service of the notice of hearing will be made at the address required to be kept current by the applicant or recipient with the Agency by T.C.A. §§ 71-5-106(1) and 110(c)(1), and at the address provided with the request for hearing, if different from the address on file with the Agency. The Agency must use the best address known to it, whether provided directly by the applicant or recipient or obtained indirectly.
 - (c) If there is a motion for default and there is no indication of actual service on a party, in determining whether to grant the default the Administrative Judge must consider the following:
 1. Whether any other attempts at actual service were made;
 2. Whether and to what extent actual service is feasible in any given case;
 3. What attempts were made to make contact with the party electronically, by telephone, by regular mail, or otherwise; and
 4. Whether the Agency has actual knowledge or reason to know that the party may be located at an address other than the address to which the notice was mailed.

- (4) **Supplemented Notice.** In the event it is impractical or impossible to include every element required for notice in the notice of hearing, elements such as the time and place of the hearing may be supplemented in a later written notice.
- (5) **Filing of Documents.** When a contested case is commenced in which an Administrative Judge will be conducting the proceedings, the Agency will provide all the papers that make up the notice of hearing and all pleadings, motions, and objections, formal or otherwise, that have been provided to or generated by the Agency. Legible copies may be filed in lieu of originals.
- (6) **Answer.** The party may respond to the issues set out in the notice or other original pleading by filing a written answer with the Agency in which the party may:
 - (a) Object to the notice upon the ground that it does not state acts or omissions upon which the Agency may proceed;
 - (b) Object on the basis of lack of jurisdiction over the subject matter;
 - (c) Object on the basis of lack of jurisdiction over the person;
 - (d) Object on the basis of insufficiency of the notice;
 - (e) Object on the basis of insufficiency of service of the notice;
 - (f) Object on the basis of failure to join an indispensable party;
 - (g) Generally deny all the allegations contained in the notice or state that he is without knowledge as to each and every allegation, both of which shall be deemed a general denial of all charges;
 - (h) Admit in part or deny in part allegations in the notice and elaborate on or explain relevant issues of fact in a manner that will simplify the ultimate issues; and
 - (i) Assert any available defense.
- (7) **Amendment to Notice.** The notice or other original pleading may be amended within two (2) weeks from service of the notice and before an answer is filed, unless it is shown that undue prejudice will result from this amendment. Otherwise the notice or other original pleading may only be amended by written consent of the parties or by leave of the Administrative Judge, and leave shall be freely given when justice so requires. No amendment to the notice may introduce a new statutory or regulatory basis for denial or termination of enrollment without original service and running of times applicable to service of the original notice. The Administrative Judge shall not grant a continuance to amend the notice or original pleading if it would prejudice the right to a hearing and Initial Order within any mandatory time frames.
- (8) **Amendments to Conform to the Evidence.** When issues not raised by the pleadings are tried by express or implied consent of the parties, they will be treated as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time; but failure to amend for this reason does not affect the result of the determination of these issues. If evidence is objected to at the hearing on the ground that it is not within the issues in the pleadings, the Administrative Judge may allow the pleadings to be amended unless the objecting party shows that the admission of such evidence would prejudice his defense. The Administrative Judge may grant a continuance to enable the objecting party to have reasonable notice of the amendments. However, when the individual is not represented by counsel, the burden is on the Administrative Judge to rule on whether to allow additional evidence and the need for continuances to enable the party additional time to address the new grounds,
- (9) **Pre-hearing Conference.**
 - (a) In any action set for hearing the Administrative Judge, upon his own motion or upon motion of a party or qualified representative, may direct the parties to appear before him for a conference to consider:

1. The simplification of issues;
 2. The necessity or desirability of amendments to the pleadings;
 3. The possibility of obtaining admissions of fact and of documents to avoid unnecessary proof;
 4. The limitation of the number of expert witnesses; or
 5. Other matters that may aid in the disposition of the action.
- (b) The Administrative Judge will enter an order reciting the action taken at the conference, the amendments allowed to the pleadings, the agreements made by the parties to the matters considered, and limiting the issues for hearing to those not disposed of by the admissions or agreements of the parties. When entered such order controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.
- (c) If a pre-hearing conference is not held, the Administrative Judge may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings.

1200-13-19-.11 Representation by Counsel.

- (1) Any party to a contested case hearing may be advised and represented, at his own expense, by an attorney in good standing and possessing a current license to practice law in the state of Tennessee.
- (2) Any party to a contested case hearing may represent himself or be represented by a non-attorney of his choice, such as a relative, friend or another spokesperson. If the party is represented by a non-attorney, he must provide valid written or oral attestation on the record authorizing representation.
- (3) The Agency will notify all parties in a contested case hearing of the right to be represented by counsel. An appearance by a party at a hearing without counsel may be deemed a waiver of the right to counsel.
- (4) Entry of an appearance by counsel will be made by the filing of pleadings, or of a formal or informal notice of appearance, or appearance as counsel at a pre-hearing conference or a hearing.
- (5) After appearance of counsel has been made, all pleadings, motions, and other documents must be served upon counsel. If appearance is by a non-attorney representative, all documents must be served on both the party and the representative.
- (6) Counsel wishing to withdraw must give written notice to the Agency and the Administrative Judge.
- (7) Out-of-state attorneys shall comply with T.C.A. § 23-3-103(a) and Tenn. Sup. Ct. R. 19, except that the affidavit referred to in Rule 19 and a motion requesting pro hac vice admission shall be filed with the Clerk's Office, and served upon the Board of Professional Responsibility according to Rule 19 not later than the first occasion in which the out-of-state attorney files any pleading or paper with the Clerk's Office or otherwise personally appears.

1200-13-19-.12 Pre-Hearing Motions.

- (1) Motions. Parties to a contested case are encouraged to resolve matters on an informal basis prior to a contested case hearing. If efforts at informal resolution fail, any party may request relief in the form of a motion by serving a copy on all parties and by filing the motion with the Administrative Judge. The motion must contain a request for the relief sought and the grounds which entitle the moving party to relief. A motion is considered submitted for disposition seven (7) days after it was filed, unless oral argument is requested and granted, or unless a longer or shorter time is set by the Administrative Judge.
- (2) Time Limits; Oral Argument. Each opposing party may file a written response to a motion within seven (7) days of the date the motion was filed, if oral argument is requested, the motion may be argued by conference telephone call. A brief memorandum of law submitted with the motion is preferable to oral argument.

- (3) Affidavits; Briefs and Supporting Statements.
- (a) Motions and responses to motions must be accompanied by supporting affidavits and briefs or supporting statements. Motions and responses to motions must be supported by affidavits for facts relied upon which are not of record or the subject of official notice. Supporting affidavits must contain only facts admissible in evidence under T.C.A. § 4-5-313, and to which the affiants are competent to testify. Properly verified copies of all papers or parts of papers referred to in the affidavits may be attached,
 - (b) in the discretion of the Administrative Judge, a schedule may be established for submitting briefs or supporting statements.
- (4) Disposition of Motions; Drafting the Order. The Administrative Judge must render a decision on a motion by issuing an order or by instructing the prevailing party to prepare and submit an order within seven (7) days of the ruling on the motion, or as otherwise ordered by the Administrative Judge. After signing an order, the Administrative Judge will cause the order to be served upon the parties.

1200-13-19-.13 Continuances.

- (1) Continuances may be granted for good cause in any stage of the proceeding. The need for a continuance must be brought to the attention of the Administrative Judge as soon as practicable by the appellant, by the Agency, or by mutual consent of the parties.
- (2) If an appellant requests a continuance, any mandatory time limits or deadlines for conducting hearings and issuing Initial Orders by an Administrative Judge may be extended by a like period of time. The applicable time frame will be extended only by the number of days that the appellant delays the proceedings, either by his acts or omissions.

1200-13-19-.14 Discovery.

- (1) Any party to a contested case proceeding has the right to examine Agency manuals, the Agency case file regarding the matter being contested, and all documents and records used as evidence, at the Agency office during normal State office hours, except that records, the confidentiality of which is protected by law may not be inspected consistent with T.C.A. § 4-5-311. A party or his representative may copy entries or documents to be introduced at the hearing as supporting evidence.
- (2) Any party to a contested case proceeding has the right to reasonable discovery under T.C.A. § 4-5-311.
- (3) The Administrative Judge will issue subpoenas to require the attendance of witnesses and the production of books, records, papers, or other tangible things necessary and proper for the hearing proceeding, when requested by a party involved in the case. Subpoenas may be served at any place within the State by certified mail in addition to means of service provided by the TRCP.
- (4) The Administrative Judge may at or before the time specified in the subpoena for compliance:
 - (a) Void or modify a subpoena if it is unreasonable and oppressive, or
 - (b) Tax the party making the request with reasonable costs in the production of books, papers, documents, or other tangible things.
- (5) The parties should attempt to achieve discovery informally. Only if such attempts have failed or if the complexity of the case makes informal discovery impracticable shall discovery be sought and conducted under the TRCP.
- (6) Upon motion of a party or upon the Administrative Judge's own motion, the Administrative Judge may order that discovery be completed by a certain date.
- (7) Any motion to compel discovery, motion to quash, motion for protective order, or other discovery related motion must:

- (a) Quote verbatim the interrogatory, request, question, or subpoena at issue, or be accompanied by a copy of the interrogatory, request, subpoena, or excerpt of a deposition which shows the question and objection or response if applicable;
 - (b) State the reason or reasons supporting the motion; and
 - (c) Be accompanied by a detailed statement certifying that the moving party or his counsel has made a good faith effort to resolve by agreement the issues raised and that agreement has not been achieved; such efforts must be set out with particularity in the statement.
- (8) The Administrative Judge will decide any motion relating to discovery according to the UAPA, the UAPA Rules, or the TRCP.
- (9) Other than as provided in paragraph (7) above, discovery materials need not be filed with the Clerk's Office.

1200-13-19-. 15 Order of Proceedings.

- (1) Hearings of contested cases, including reconsideration hearings, will be conducted as follows:
- (a) The Administrative Judge may confer with the parties prior to a hearing to explain the order of proceedings, admissibility of evidence, number of witnesses and other matters.
 - (b) The hearing is called to order by the Administrative Judge.
 - (c) The Administrative Judge introduces himself and gives a very brief statement of the nature of the proceedings, including a statement of his role in making factual and legal rulings.
 - (d) The Administrative Judge then calls on the petitioner to ask if the petitioner is represented by counsel, and if so, counsel is introduced. The Administrative Judge then introduces the respondent's counsel and any other officials who may be present at the hearing.
 - (e) The Administrative Judge states what documents the record contains.
 - (f) The Administrative Judge swears the witnesses.
 - (g) The parties are asked whether they wish to have all witnesses excluded from the hearing room except during their testimony. If so, all witnesses are instructed not to discuss the case during the pendency of the proceeding and asked to leave the hearing room, individual parties are permitted to stay in the hearing room, and the State may have one appropriate individual, who may also be a witness, act as its party representative.
 - (h) Any preliminary motions, stipulations, or agreed orders are heard by the Administrative Judge.
 - (i) Opening statements are allowed by both parties.
 - (j) The petitioner, as the moving party, has the burden of proof, calls the first witness and questioning proceeds as follows:
 - 1. Moving party questions.
 - 2. State cross-examines.
 - 3. Moving party redirects.
 - 4. State re-cross-examines.
 - 5. Administrative Judge may ask questions.
 - 6. Further questions by parties as long as necessary to provide all pertinent testimony.

- (k) State calls witnesses and questioning proceeds as follows:
 - 1. State questions.
 - 2. Moving party cross-examines.
 - 3. State redirects.
 - 4. Moving party re-cross-examines.
 - 5. Administrative Judge may ask questions.
 - 6. Further questions by parties as long as necessary to provide all pertinent testimony.
- (l) The moving party and the other party are allowed to call appropriate rebuttal and rejoinder witnesses with examination proceeding as outlined above,
- (m) Closing arguments are allowed to be presented by both parties.
- (n) The Administrative Judge announces the decision or takes the case under advisement.
- (2) The parties are informed that an Initial Order will be written and sent to the parties and that the Initial Order will inform the parties of their appeal rights.
- (3) Paragraphs (1) and (2) of this rule are intended to be a general outline for the conduct of a contested case proceeding. A departure from the literal form or substance of this outline, in order to expedite or ensure the fairness of proceedings, is not a violation of this rule.

1200-13-19-. 16 Default and Uncontested Proceedings.

- (1) The failure of a party to attend or participate in a pre-hearing conference, hearing or other stage of contested case proceedings after appropriate notice of those actions is cause for holding that party in default under T.C.A. § 4-5-309. Failure to comply with any lawful order of the Administrative Judge, necessary to maintain the orderly conduct of the hearing, may be deemed a failure to participate in a stage of a contested case and is cause for a holding of default.
- (2) If a party fails to attend or participate as provided in paragraph (1) above, the Administrative Judge will enter into the record evidence of service of notice to that party and determine whether the service of notice is sufficient as a matter of law, according to this chapter. If the notice is held to be sufficient, the Administrative Judge may do either of the following:
 - (a) Hold the party failing to attend or to participate in default and, after determining that the party in default has the burden of proof, adjourn the proceedings and enter an order of default stating the grounds for the default that will become a Final Order without further notice as provided in this chapter, unless a petition for reconsideration is timely filed; or
 - (b) Hold the party failing to attend or to participate in default and, after determining that the party not in default has the burden of proof, conduct the proceedings without the participation of the defaulting party and include in the initial Order a written notice of default stating the grounds for the default. The Initial Order will become a Final Order without further notice as provided in this chapter, unless a petition for reconsideration is timely filed.
- (3) The Administrative Judge will serve the written notice of entry of default for failure to appear as provided in paragraph (2) above on all parties. The defaulting party, no later than fifteen (15) days after receipt of a notice of default, may file a petition for reconsideration as provided in this chapter and T.C.A. § 4-5-317, requesting that the default be set aside for good cause shown, and stating the grounds relied upon. The Administrative Judge may rule on the petition or take no action for twenty (20) days after which the petition is deemed denied. T.C.A. § 4-5-317.

1200-13-19-.17 Evidence. The Administrative Judge will consider the information used to determine the applicant's eligibility as well as additional relevant information presented as evidence during the course of the appeal. The standard for admissibility of evidence is set out at T.C.A. § 4-5-313.

- (1) The testimony of witnesses will be taken in open hearings, except that witnesses may be excluded from the hearing prior to their testimony.
- (2) The Administrative Judge will admit and give probative effect to evidence admissible in a court. When necessary to establish facts not reasonably susceptible to proof under the rules of court, evidence may be admitted if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. The Administrative Judge will give effect to the rules of privilege recognized by law and to state or federal statutes or regulations protecting the confidentiality of certain records and will exclude evidence which in his judgment is irrelevant, immaterial or unduly repetitious.
- (3) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the Agency. Upon request, parties will be given an opportunity to compare the copy with the original, if reasonably available.
- (4) Official notice may be taken of:
 - (a) Any fact that could be judicially noticed in the courts of Tennessee:
 - (b) The record of other proceedings before the Agency:
 - (c) Technical or scientific matters within the Administrative Judge's specialized knowledge; and
 - (d) Codes or standards that have been adopted by an agency of the United States, of Tennessee or of another state, or by a nationally recognized organization or association. Parties will be notified before or during the hearing, or before the issuance of any Initial or Final Order that is based in whole or in part on facts or material noticed, of the specific facts or material noticed and the source, including any staff memoranda and data, and be given an opportunity to contest and rebut the facts or material so noticed.
- (5) Every party has the right to present evidence, to make arguments, and to confront and cross-examine witnesses,
- (6) Any party intending to introduce an affidavit into evidence must deliver a copy of the affidavit along with the notice described below to the opposing party at least ten (10) days prior to a hearing or a continued hearing. The opposing party has seven (7) days after delivery of the affidavit to deliver to the proponent a request to cross-examine the affiant or the right to cross-examination is waived and the affidavit, if introduced in evidence, will be given the same effect as if the affiant had testified orally, if an opportunity to cross-examine an affiant is not provided after a proper request is made, the affidavit will not be admitted into evidence. Delivery means actual receipt, for purposes of this paragraph. The Administrative Judge may admit affidavits not submitted in compliance with this paragraph where necessary to prevent injustice.
- (7) The notice required to accompany an affidavit must contain the following information and be substantially in the following form:

The accompanying affidavit of _____ (here insert name of affiant) will be introduced as evidence at the hearing in _____ (here insert title of proceeding). _____ (Here insert name of affiant) will not be called to testify orally and you will not be entitled to question such affiant unless you notify _____ (here insert name of the proponent or the proponent's attorney) at _____ . (here insert address) that you wish to cross-examine such affiant. To be effective, your request must be mailed or delivered to _____ (here insert name of proponent or the proponent's attorney) on or before _____ (here insert a date seven (7) days after the date of mailing or delivering the affidavit to the opposing party).

1200-13-19-.18 Initial and Final Orders.

- (1) At the conclusion of the hearing, the Administrative Judge may allow the parties a designated amount of time to submit proposed findings of fact and conclusions of law.
- (2) The Administrative Judge will issue an Initial Order which automatically becomes the Final Order fifteen (15) days after it is issued unless the Agency receives a timely filed petition for appeal, petition for reconsideration, or petition for a stay of effectiveness. The effective date of an initial Order that becomes final by operation of law is its original date of entry. The Final Order is binding upon all parties unless it is stayed, reversed or set aside according to applicable rules.
- (3) If the Administrative Judge becomes unavailable for any reason before issuing an Initial Order or Final Order, a substitute will be appointed as provided in T.C.A. § 4-5-302. The substitute must use the existing record and may conduct further proceedings as appropriate in the interest of justice.
- (4) Contents of the Order.
 - (a) An Initial Order or a Final Order will include findings of fact, conclusions of law, the policy reasons for the decision, the remedy prescribed and, if applicable, the action taken on a petition for stay of effectiveness. The Agency member's experience, technical competence, and specialized knowledge may be utilized to evaluate the evidence.
 - (b) Findings of fact are concise and explicit statements of the underlying facts of record that support the order and must be based exclusively upon the evidence of record from the hearing and on matters officially noticed in that proceeding.
 - (c) The Initial Order must include a statement that it will automatically become a Final Order without further notice unless a petition for reconsideration or petition for appeal is filed.
 - (d) The Initial Order or Final Order must include a statement of the procedures and time limits to request an appeal, reconsideration or stay of the Initial or Final Order and the time limits for seeking judicial review of the Final Order.
- (5) The Administrative Judge must cause copies of the Initial Order to be sent to each party at the time the order is entered. If an Initial Order becomes final by operation of law, no further notice shall be provided.
- (6) If a Final Order is issued, the Agency must cause copies of the Final Order to be sent to each party at the time the order is entered.

1200-13-19-.19 Appeal of Initial Orders,

- (1) Written notice of the right to petition for stay, reconsideration, or appeal must accompany the Initial Order sent to the parties.
- (2) If an initial Order is subject to both a timely petition for reconsideration and a petition for appeal, the petition for reconsideration will be disposed of first and a new fifteen (15) day period will start to run.
- (3) A petition for appeal from an Initial Order must be addressed to the Commissioner's Designee and filed with the Clerk's Office within fifteen (15) days after entry of an Initial Order and comply with T.C.A. § 4-5-315.
- (4) A petition for appeal must state its basis.
- (5) The Commissioner's Designee, on his own motion, may review an Initial Order after giving written notice to the parties within fifteen (15) days after entry of an Initial Order.
- (6) On appeal the parties will be permitted an opportunity to file briefs. The Agency may provide the parties an opportunity to present oral argument.
- (7) The Commissioner's Designee may enter a Final Order disposing of the proceeding or may remand the matter for further proceedings with instructions to the Administrative Judge who entered the initial Order.

When remanding a matter, the Commissioner's Designee may order temporary relief if authorized and appropriate.

- (8) A Final Order or an order remanding the matter for further proceedings will be entered in writing within sixty (60) days after receipt of briefs and oral argument, unless that period is waived or extended with the written consent of all parties or for good cause shown. The order will identify any differences from the initial Order and include or incorporate by express reference to the Initial Order, all information required by paragraph .18(4).

1200-13-19-.20 Reconsideration.

- (1) Written notice of the right to petition for stay, reconsideration, or appeal must accompany the initial Order sent to the parties.
- (2) if a separate Final Order is entered following the entry of an initial Order, written notice of the right to petition for reconsideration of the Final Order will accompany the Final Order sent to the parties.
- (3) A petition for reconsideration stating In detail the reasons for the request and the relief requested may be addressed to the Administrative Judge and filed with the Clerk's Office by any party within fifteen (15) days after entry of an Initial Order or Final Order.
- (4) If an Initial Order is subject to both a timely petition for reconsideration and a petition for appeal, the petition for reconsideration will be disposed of first and a new fifteen (15) day period will start to run.
- (5) Filing a petition for reconsideration of the Final Order does not supersede or delay the effective date of the Final Order. The Final Order takes effect on the date entered by the Agency and continues in effect until the petition for reconsideration is granted or until the Final Order is stayed, superseded, modified, or set aside in a manner provided by law. If a change affecting benefits or services occurs while reconsideration is pending, action to implement that change is not delayed pending the decision concerning reconsideration of the Final Order.
- (6) Within twenty (20) days of receiving a petition for reconsideration of the Initial or Final Order, the Administrative Judge who entered the Initial or Final Order will enter a written order as set out at T.C.A. § 4-5-317:
 - (a) Denying the petition;
 - (b) Granting the petition and setting the matter for further proceedings; or
 - (c) Granting the petition and issuing a new Initial or Final Order.
 - (d) if no action is taken on the petition for reconsideration within twenty (20) days, the petition is deemed to be denied.
- (7) An order granting a petition for reconsideration and setting the matter for further proceedings will contain:
 - (a) A statement of the extent and scope of the proceedings;
 - (b) A statement limiting the proceedings to argument upon the existing record; and
 - (c) State that no new evidence will be introduced, unless the party proposing new evidence shows good cause for his failure to introduce the evidence in the original proceeding.

1200-13-19-.21 Stay.

- (1) Written notice of the right to petition for stay, reconsideration, or appeal must accompany the Initial Order or Final Order sent to the parties.
- (2) A petition for stay of effectiveness of an initial Order or Final Order may be submitted to the Agency within seven (7) days after entry of the order. The Agency may take action on the petition for stay before or after the effective date of the Initial or Final Order.

1200-13-19-.22 Judicial Review.

- (1) Written notice of the right to seek judicial review of the Final Order and the time within which to file a petition for judicial review of the Final Order must be included with the Initial and Final Order sent to the parties.
- (2) Judicial review is initiated by filing a petition for review in a Chancery Court of Tennessee having jurisdiction within sixty (60) days after the Final Order is entered. T.C.A. § 4-5-322 sets out the judicial review information.

1200-13-19-.23 Clerical Mistakes. Prior to any appeal being perfected by either party to Chancery Court, clerical mistakes in orders or other parts of the record, and errors of oversight or omission may be corrected by the Administrative Judge or the Commissioner's Designee at any time on his own initiative or on motion of any party and after such notice, if any, as the Administrative Judge or Commissioner's Designee may require. The entry of a corrected order does not affect the dates of the original appeal time period.

1200-13-19-.24 Agency Record.

- (1) The agency record as defined in this chapter will remain on file in the Bureau of TennCare for not less than three (3) years and be available to the appellant or his representative at any reasonable time during business hours.
- (2) Public access to Final Orders. Hearing decisions will be accessible to the public for inspection and copying, subject to the requirements of safeguarding information which is confidential under any provision of law or rule. Those portions of any record that contain confidential information may be deleted prior to providing access to the Final Order.

1200-13-19-.25 Code of Judicial Conduct, Disqualification and Separation of Functions. Administrative Judges must comply with the code of judicial conduct requirements set out in the UAPA Rules and the requirements of T.C.A. §§ 4-5-302 and 4-5-303 concerning disqualification of Administrative Judges and separation of functions. Complaints regarding an individual Administrative Judge's conduct are to be made to the supervising Administrative Judge and complaints regarding the supervising Administrative Judge are to be made to the commissioner.

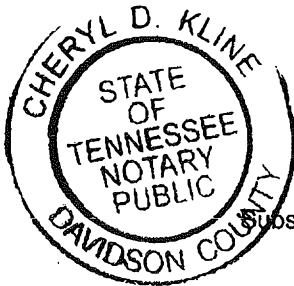
Statutory Authority: T.C.A. §§ 4-5-202, 71-5-105, 71-5-109 and 71-5-112; 42 U.S.C. §§ 1396a(a)(3), (5), (8); 42 C.F.R. 431 Subpart E and 42 C.F.R. § 435.912.

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration (board/commission/ other authority) on 01/23/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 11/21/14

Rulemaking Hearing(s) Conducted on: (add more dates). 01/14/15



Date: 1/23/2015

Signature: [Handwritten Signature]

Name of Officer: Darin J. Gordon

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration

Subscribed and sworn to before me on: 1/23/2015

Notary Public Signature: Cheryl D. Kline

My commission expires on: AUG 23 2016

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatyer III
Attorney General and Reporter

January 28, 2015
Date

Department of State Use Only

Filed with the Department of State on: 2/2/2015

Effective on: 5/3/2015

Tre Hargett

Tre Hargett
Secretary of State

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